

Birmingham City Council

Report to Planning Committee

23rd April 2020

Subject: Proposed Temporary Revisions to the Scheme of Delegation and Planning Code of Practice

Report of: Acting Director, Inclusive Growth

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Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, provide exempt information paragraph number or reason if confidential :

1. Executive Summary

- 1.1. To seek approval for a temporary revised Planning Code of Practice and Scheme of Officer Delegation to enable effective decision making to continue during the current Covid 19 outbreak. The following arrangements are intended to apply until the Committee is able to physically meet again and there is no longer need for virtual meetings.

2. Recommendations:

- 2.1. That Planning Committee recommend to Full Council that Part B12.2 of the Constitution be amended to set quorum for virtual meetings of the Planning Committee to three members.
- 2.2. Notes that the Scheme of Sub-Delegations will be amended as set out in Appendix 1.
- 2.3. That the Code of Practice be amended as set out in Appendix 2.
- 2.4. To delegate authority to the Chair, in consultation with the Director of Inclusive Growth, to determine planning applications on behalf of the Committee in between meetings of the Committee in the event that it is urgent to do so.

3. Background:

- 3.1. As a result of the outbreak of coronavirus the country is facing unprecedented disruption to normal life and as a result it is now unsafe to hold face to face Planning Committee meetings. This situation will continue for an undetermined length of time but it could be for a number of months.

- 3.2. Planning Officers are working from home and although physical meetings need to be cancelled, it is important that the planning system continues to function as this will help to support the local economy and community by ensuring that planning permissions are in place ready for when businesses can get back to work. It is also important for the reputation of the Council for it to continue to function during this difficult period.
- 3.3. There are statutory timescales for determining planning applications and if the Council fails to determine an application within this timescale then the applicant can appeal to the Planning Inspectorate for non-determination. It is also possible to agree extensions of time to applications which could push the decision back to a later date, but this will not be possible in every case and, as we do not know how long this situation will last, we have to make provisions now to continue as closely as we can to 'business as usual.'
- 3.4. In accordance with the current scheme of delegation, many applications are able to be determined under delegated powers but there are still a large number that are currently required to be determined by Planning Committee and the Council needs to make arrangements to enable decision making to continue to take place without the need for public meetings.
- 3.5. In order to help Local Authorities continue to make planning decisions the government has introduced emergency legislation to allow council committee meetings to be held virtually; the Coronavirus Act 2020. This Act was swiftly followed by the relevant regulations coming into force on the 4th April; *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*. These regulations enable councillors to attend virtual, or remote, meetings rather than having to be physically in the same room. The regulations are temporary and allow virtual meetings to be held up to the 7th May 2021.
- 3.6. Virtual Planning Committee meetings raise a new set of issues to consider in conducting the meeting itself in terms of governance, public participation and technology and this report sets out suggested amendments to the Constitution, the Scheme of Delegation and the Planning Code of Practice in order to address these issues.
- 3.7. Ideally, the meetings should follow existing committee processes where possible and where practical, bearing in mind that everyone attending the meeting will be doing so from a different location. A revised Code of Practice should address those procedures & processes that are not possible or practicable to be complied with.
- 3.8. The proposed revisions to the Scheme of Delegation and the Planning Code of Practice are set out at Appendices 1 and 2 with all deletions being indicated as ~~crossed out~~ and all new wording shown in **bold**.

4. Potential Issues with Virtual Meetings:

- 4.1. The Constitution (Part B12) sets out that quorum for the Planning Committee is 5 out of its 15 members. However, members may become unavailable due to caring for someone who is ill, being ill themselves or due to problems with the technology. At present the capacity of the network is being stretched by increasing numbers of individuals working, studying and socialising from home and connections may not always be stable, causing

drop-outs or interruptions in the signal. In these circumstances Council is being asked to consider temporarily reducing quorum to 3 members.

- 4.2. A meeting with participants in different places with some or all taking part in audio only will be difficult to follow and control. The meetings need to be as clear and careful about details as possible in order to minimise the risk of legal challenge or complaint about maladministration.
- 4.3. The Code of Practice will need to clarify what constitutes 'attendance' in order for members to be able to vote on a decision. This includes that members can attend by audio and/or by video and will have to have heard all of an item being discussed in order to vote on it.
- 4.4. Cameras or microphones may fail or connections lost meaning a member may need to switch to using a telephone to connect to the meeting or signals may drop out meaning that members may miss part of a discussion, in which case they should not be entitled to vote on an item.
- 4.5. Decisions need to be clearly taken and the method of voting will need to be agreed in advance. It will also need to be clear for the public watching the proceedings. In a virtual meeting with the possibility that some members are attending by audio only it may be necessary for a named vote on some, or all occasions rather than a show of hands. There may be an option to vote by 'clicking' a button that will need to be examined for its robustness, consider those that are attending in audio only and consider what the observer will see.
- 4.6. Decisions need to be clearly recorded and the method recording decisions will need to be agreed in advance. The record of decisions (the minutes) will need to be published on the Council's website.
- 4.7. There is still a requirement to give 5 clear working days' notice of a meeting, which can now be given on the council's website (reg. 6(e)), but the new regulations now allow the date and time of a meeting to be altered, or cancelled, without any further notice (Reg 4(1)).
- 4.8. As the meetings will still be 'public' they will still need to be able to be viewed but those viewing the meeting should not be able to intervene in the meeting or disrupt it. An appropriate level of security will be essential for the meeting platform; controlling attendance to prevent interruptions from people attempting to disrupt or intervene in meeting, as has already happened in other authorities.
- 4.9. Currently ward members, applicants, agents and members of the public can speak at committee. If that were to continue it would mean that they would have to be invited to join the virtual meeting. The logistics of setting up and running a virtual meeting will be challenging enough without having to factor in the usual range of public speakers. In addition, either the chair or an officer would have to be able to manage the connections of the public speakers to ensure that they could contribute at the correct point and avoid any unwanted or uninvited interruptions.

- 4.10. Therefore it is recommended that the requirement in the Code of Practice for public and ward member speaking at committee is temporarily suspended. It can be reinstated at a later date and in the meantime those who would have asked to speak can instead be offered the option to submit a written statement of a similar length. Once the virtual meeting system is operating this matter can be reviewed.
- 4.11. The Code of Practice requires all Planning Committee members to be appropriately trained, which includes ongoing training for existing members as well as for new members. Training may be possible during this period but it would be sensible not to require it and, in order to avoid any potential conflict with the code, it is recommended that this requirement be temporarily suspended until the need for social distancing and self-isolation has ended.
- 4.12. Planning Committee currently meets every 2 weeks due to the number of items it has to consider. Committee meetings need to be used effectively and judiciously as arranging virtual meetings will be difficult for all those taking part and arranging things behind the scenes. Continuity of availability of officers during the current pandemic cannot be guaranteed, especially in the current circumstances where many are under considerable pressure already. The meetings should be as efficient as possible given the strain that will be placed on staffing levels over the coming months.
- 4.13. Therefore, Committee meetings need to focus on considering the most important decisions and it would therefore be sensible to temporarily increase officer delegation to reduce the number of applications that need to be reported to committee. This will enable there to be fewer items considered at Planning Committees and reduce the frequency of meetings.
- 4.14. There are a number of standard items considered by Committee which include regular update reports and agenda items, such as appeal performance updates. It is recommended that during the current emergency these update reports could be circulated by email to Committee members outside of the formal meetings.
- 4.15. Other regular items that could be omitted include the presentation of petitions, requests for committee site visits, member call-ins, the authority to the Chair between meetings and the private agenda. This will reduce the number of items considered by Committee at each meeting and enable them to focus on dealing with essential applications.
- 4.16. In view of the need for social distancing and self-isolation, petitions will be being compiled and submitted electronically and member site visits should not be taking place.
- 4.17. Currently committee members can use a committee meeting to request items to be called in at a future Planning Committee meeting without any relevant documentation available, whereas other members have to submit a written request to the Director. This adds to discussions at the meeting, increases the number of call-ins and provides a 2 tier system for call-ins. Planning members will have to follow the same process as other members.
- 4.18. The delegation to the Chair is agreed at each meeting and it would be more efficient to have a permanent delegation in place instead.

- 4.19. This change to the scheme of delegation should also consider amendments to the following matters:
1. 'Member call-in' - This currently allows planning committee members to request items to be called in at a Planning Committee meeting (decision by Committee) as well as ward members to submit a written request to the Director for items to be called in (decision by Chair).
 2. Local Opposition – applications must be reported to committee where there is 'substantial' public opposition against a recommendation. Currently it has become local custom for the bar to be set very low to qualify as 'substantial.'
 3. Member/Officer Applications – This requirement applies to any application where a member or officer has any interest, irrespective of the significance of the interest, the nature of the application or whether the member or officer is involved in planning.
 4. Significant Consultee Objection – this is irrespective of the recommendation, whether it can be ameliorated by condition or whether other matters are considered to over-ride it.
 5. Decision against Policy – This currently does not allow for Planning Officers to make the judgement that other material considerations outweigh the relevant policies.
 6. Scale of Development –
 - a. Major Development - This currently allows only a limited scale of development:
 - i. for 15 or more dwellings –
 - ii. residential site area more than 1 ha or 2000sq.m.
 - iii. 5000sq.m. of industrial floorspace
 - iv. Other applications – Variation/removal of conditions, renewals, minor amendments where it is not 'substantial' and no 'significant' objections received.
 - b. Listed Buildings – This currently allows only minor works without any objections from the Conservation Area Advisory panel
 - c. Approval of departure applications requiring notification
 - d. Applications requiring a S106 agreement – other than renewals irrespective of scale of development.
 - e. Mineral works – This is irrespective of scale of development.
 - f. Telecom masts – This currently does not allow delegated approval without an ICNIRP Certificate
 - g. Applications by Director of Inclusive Growth – This is irrespective of scale of development apart from allowing minor schools schemes with the Chair's agreement.
 - h. LA Applications – only where there is no 'significant' impact on the environment or the amenities of nearby residents.
 - i. Making/Confirming Orders – unless there is 'substantial' opposition

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APPENDIX 1:

REVISIONS TO THE OFFICERS SCHEME OF DELEGATION:

Planning & Development Matters:

(All deletions are indicated as ~~crossed-out~~ and all new wording shown in **bold**)

No:		Comments
9	Deal with, make, issue, review, approve, grant, allocate, refuse and decline applications, notifications and certificates in relation to the Council's planning and development function, EXCEPT applications or notifications:	
9 a	Where a member of the Planning Committee requests at a meeting of the Committee that the application or notification is determined by the Committee, giving the planning grounds for such a request, and whether any or all recommendations should be presented to the Planning Committee.	This currently allows planning committee members to request items to be called in at a Planning Committee meeting as well as to submit a written request as a ward member.
9 b	That any member of the Council requests be determined by the Planning Committee (such request to be made in writing to by email to the Director Inclusive Growth specifying the planning grounds on which the request is made and received by the Director Inclusive Growth within the specified consultation period for the application or notification) with the agreement of the Chair of the Planning Committee.	
9 c	Where there is substantial local public opposition and where it is proposed to approve the application or notification to the officer's recommendation. 'Substantial' shall be considered as representations by 30 or more separate households against the recommendation or where a valid	9(c) and (d) have been amalgamated to cover both. Custom and practice has set a very low bar that is resulting in numerous minor applications being considered by committee

	petition of more than 30 signatories has been submitted in accordance with the Council's Rules	and it is proposed to specify a higher threshold.
9 d	For which there is substantial public support, but where it is proposed to refuse the application or notification	
9 e	Where the Director Inclusive Growth is informed that a member of the Council or an officer of his/her Department has an interest in the property or land which is the subject of the application or notification save for applications for householder developments where: <ul style="list-style-type: none"> • All other criteria within the Scheme of Delegation are met • There are no public or consultee representations received contrary to the officer's recommendation. • The applicant is not a Planning Officer, Director, Assistant Director, a member of the Planning Committee or Cabinet. 	This requirement applies to any application where a member or officer has any interest, irrespective of the significance of the interest, the nature of the application or whether the member or officer is involved in planning.
9 f	Where there is significant objection from a statutory consultee that has not been addressed by a condition or whether other matters are not considered to over-ride it.	This is irrespective of the recommendation, whether it can be ameliorated by condition or whether other matters are considered to over-ride it.
9 g	Where the proposed development complies with adopted planning policies and other planning guidelines, but where it is proposed to refuse the application or notification	This currently does not allow for Planning Officers to make the judgement that other material considerations outweigh the relevant policies.
9 h	Where the proposed development involves a significant breach of planning policies or other planning guidelines, but where it is proposed to approve the application or notification.	
9 i	Which is likely to have, in the Director Inclusive Growth's opinion, a significant impact on the environment or to be	

	particularly controversial or contentious.	
9 j	<p>Which relate to Major developments comprising:</p> <ul style="list-style-type: none"> i. 45 40 or more dwellings or a outline residential development site of 1 hectare or more where the number of dwellings is not shown. ii. Industrial Any development with floor space of 5000square metres or more. iii. All other developments not within (i) or (ii) where the floor space is 2000 square metres (gross) or more or Outline applications where the site area is 1 hectare or more. <p>EXCEPT for a variation or removal of condition, the renewal of an extant permission or a minor material amendment, where the change is not substantial and no significant objections have been received.</p>	This currently allows only a limited scale of development
9 k	<p>Relating to Grade I and Grade II* Listed Buildings, other than minor works (including those applications or notifications relating to Grade II Listed Buildings where objection has been made through the Conservation Area Advisory process, and those applications where the relevant Secretary of State has decided to amend or alter the decision of the Planning Committee).</p>	This currently allows only minor works without any objections from the Conservation Area Advisory panel
9 l	Recommended for approval where there is a departure from the Development Plan Policy and which would be required to be the subject of a notification to the DCLG if the Committee were minded to approve the application or notification.	

9 m	Requiring authorisation to enter into a planning obligation (except as a result of a Section 73 application) other than in the instance of a full planning application where the principle has been established by a previously approved application and where the proposed development is substantially the same as that previously considered and approved.	This does not allow even minor S106 applications to be delegated.
9 n	Relating to major mineral workings.	This is irrespective of scale of development.
9 o	Approval of Telecoms development involving the erection or installation of new masts where there is no ICNIRP Certificate issued (proposals for additional antennae or dishes or existing telecom structures falls within the scheme for delegation)	This currently does not allow delegated refusal without an ICNIRP Certificate
9 p	Submitted by the Director Inclusive Growth or by any other officer acting on his behalf under delegated powers, save for applications for minor developments at City Council Schools where: <ul style="list-style-type: none"> • All other criteria within the Scheme of Delegation are met • There are no public or consultee representations received contrary to the officer's recommendation, and The Chair of Planning Committee agrees with the officer's recommendation.	
10	remain unchanged	
11	remain unchanged	
12	remain unchanged	
	remain unchanged	
13	remain unchanged	

14	remain unchanged	
15	remain unchanged	
16	remain unchanged	

APPENDIX 2:

REVISIONS TO THE CONSTITUTION – Part C8. PLANNING CODE OF PRACTICE FOR MEMBERS AND OFFICERS

8.1 Purpose of this Code

- i. This Planning Code of Practice ('the Planning Code') has been prepared to guide Members and officers in the discharge of the City Council's statutory planning functions. This Code will also inform potential developers and the public generally of the high standards of ethical conduct adopted by the Council in the exercise of its planning powers.
- ii. The Planning Code is in addition to Birmingham's adopted Code of Conduct for Members and subject to the responsibilities and requirements as set down by the Monitoring Officer from time to time. The responsibility for declaring an interest rests with individual Members and officers. Members should seek legal advice if they are unsure as to whether they have an interest which may prevent them from taking part in a discussion or vote on a particular planning application. Planning Committee Members must exercise an independent mind on issues before the Committee.
- iii. The provisions of this Planning Code are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and officers making such decisions are held accountable for those decisions. The Planning Code is also designed to assist Members and officers in dealing with approaches from property owners.
- iv. If you have any doubts about the application of this Planning Code, you should seek early advice, preferably well before any meeting takes place, from the Director (Inclusive Growth) and/or the Assistant Director Planning/Assistant Director Development.

8.2 Roles and responsibilities

- i. Members and officers have different but complementary roles in the planning process. Members have more than one role in the process – as Ward Members and as Planning Committee Members.

Ward Members not on the Planning Committee

- ii. Ward Members who are not on the Planning Committee are in a position to represent the interests of their Ward when it comes to planning and related applications. Ward Members may:
 - ~~Attend the Planning Committee meeting as an observer;~~
 - **Observe virtual meetings of the Planning Committee**

- ~~Speak on applications~~ **Submit written representations to the Planning Committee**, subject to the provisions in the public ~~speaking~~ **participation** protocol;
- ~~Get involved with pre-application meetings with officers and developers and in~~
- consultations on the draft heads of terms for section 106 agreements;
- ~~Request briefings from officers on applications.~~

Members who are on the Planning Committee

i. The role of Members who are involved in the planning decision making process is to exercise their judgment properly on the planning application before them – and be seen to do this. In coming to a decision on a planning application Members should make this decision based solely on material planning considerations. Officer reports to the Planning Committee will identify what is regarded as material to a decision and if Members are unclear on what matters may or may not be material to a decision they should seek advice from officers.

ii. Whilst Members must act within the law, the exercise of planning judgment is theirs and theirs alone. The Planning Committee must take into account all relevant ministerial guidance, local plans (and related documents) and the advice of officers. The weight Members attach to the relevant considerations is a matter of their planning judgment and Members should not give weight to non-planning related matters that may be raised by members of the public.

iii. Planning Committee Members often receive correspondence from constituents, applicants and developers asking them to support or oppose a particular proposal. Members should **electronically** forward a copy of the correspondence to the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development or inform them at the Planning Committee if time is short. Merely forwarding the correspondence onto the relevant officer would not prevent the Member being involved in determining the application.

iv. Where Planning Committee Members are involved in pre-application discussions, they should be advised by the appropriate officers of the Council, which should always include a senior planning officer. The involvement of Planning Committee Members in such discussions should be recorded as a written file record of the meeting.

v. Planning Committee Members should not, whether orally or in writing, organise support or opposition to a proposal, lobby other Councillors, act as advocate or put pressure on officers for a particular recommendation.

vi. Members are democratically accountable to their electors and to the wider public on whose behalf they act.

Officers

vii. The Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development have a dual role in the decision making process:

- Making decisions on the majority of planning applications under delegated powers.
- Making recommendations on planning matters which are determined by Members at Planning Committee. When making such recommendations the function of officers is to support and advise Members, ensure that any decision they make is lawful and identify any possible consequences of taking decisions.

8.3 Predetermination and Bias

i. In making their decisions, Members of the Planning Committee should not be seen to side with either the applicant or the objector/s prior to the hearing of the application when all the relevant facts are known. Members are required to keep an open mind. This is a requirement of the law and a separate guidance note on predetermination and bias to assist Members in complying with this complex area of legislation and case law is set out in Section C8.13 below.

8.4 Development Proposals submitted by Members and Employees

i. Where development proposals are submitted by Members and employees in respect of their own property or land it is particularly important that the Council ensures that such applications are handled in a way that gives no grounds for accusations of favouritism.

ii. Serving Members of Council who submit applications or act as agents should play no part in the decision making process for that application. Further, they should not take part in the processing of the application nor should they lobby employees or officers either directly or indirectly.

iii. Any planning officer who submits an application for their own property or on behalf of a friend or family member will inform the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development in writing and such applications will be determined by the Planning Committee.

iv. Officers are required under the Employee Code of Conduct to make a declaration by completing the Register of Interests/Conflict of Interest Form, declaring any matters which may conflict with duties as an employee and their personal interests such as:

- Any financial interest in any planning application;
- Other interest where others may think that a conflict of interest may arise, such as for proposals near their residence.

v. In circumstances where there is a conflict of interest, the officer has no involvement in any part of the decision making process. If there is doubt about any conflict it is better to be cautious and for the officer to have no involvement.

8.5 Member contact with applicants and developers

i. The Government encourages applicants to enter into pre-application discussions. Such discussions are a normal part of the planning process to seek further information and to seek to identify improvements to proposals at an early stage. These discussions and meetings provide an opportunity for the potential applicant to receive advice and information about the policy and technical requirements that must be met and advice on design, on community engagement and other issues which may improve the chances of an application being acceptable to the Local Planning Authority (LPA). However, it should be made clear that any guidance given will not bind the LPA to making a particular decision.

ii. To minimise the prospect of challenges based on predetermination and bias, the guidelines below should be followed:

- It will always be made clear that any information or statements made cannot bind the LPA to making a particular decision.
- Wherever possible, Members should be accompanied by an officer when meeting with applicants.
- Members should refer applicants who approach them for advice to officers.
- A written record of the discussion should be made by the officer.
- Planning Committee Members are free to take part in meetings with potential applicants or their agents but extra care is needed to avoid any perception of predetermination or bias.

8.6 Planning Committee meetings

Attendance at meetings

i. It is important to ensure that Members taking planning decisions are in possession of all the relevant facts, including matters pointed out or that come to light during a site visit by Planning Committee, matters that may have been raised during public speaking and matters that may have been discussed and considered by Planning Committee on earlier occasions. Attendance of Members on all occasions during the application phase, i.e. once the application has been submitted, will not only

demonstrate that Members are fully informed but will also ensure that high quality, consistent and sound decisions are made, and that the risks of legal challenge are minimised.

ii. A Planning Committee Member should not vote in relation to any planning application unless he or she has been present in the meeting of the Planning Committee for the whole of the deliberations on that particular application. **In the case of a virtual committee meeting that means having listened to the entire presentation and debate relating to a particular application. By taking part in the vote on a particular item, members will be deemed to have made a declaration to that effect.**

iii. In cases where an application has been discussed at Planning Committee on more than one occasion, if a Member has not attended on each occasion during the application phase and wants to take part in the decision on an application, he or she should consider whether or not they are fully apprised of all the facts and relevant information necessary to properly reach a decision. If there is any doubt, legal advice should be sought by the Member concerned.

Conduct at meetings

i. The Chair of the Planning Committee is responsible for the conduct of the meeting in accordance with the relevant Council procedure rules and for the effective delivery of business.

ii. The Planning Committee meetings are open to the public and they are often well attended particularly when there is a contentious application on the agenda. Meetings are also attended by the applicants/agents and/ or other parties supporting an application and/or objectors against an application. It is important to demonstrate that decisions have been made fairly and transparently and in the correct manner. Any debate should be confined to the planning merits of the matter.

iii. A legal officer should always attend meetings of the Planning Committee to ensure the probity and propriety of the planning and decision-making processes.

iv. Where there is any doubt as to the voting or of the actual counting of votes in relation to any particular application, clarification should be immediately sought by the Chair prior to dealing with the next agenda item, and if considered necessary this may include requesting from each Member as to how they have voted, noting this and the Member's name.

8.7 Decisions different to the officer recommendation

i. Decisions on planning applications must be taken in accordance with the Development Plan unless material considerations indicate otherwise. From time to time the Committee may attach different weight to the potential planning

considerations and, therefore, take a decision which differs from the officer recommendation.

ii. Where this occurs, Members must be able to give a clear basis and reason for not taking the officer recommendation. It is important to ensure, as far as possible, that any decision made will be capable of surviving a legal challenge or appeal. So in the event that this occurs the Chair will ensure that the following principles are followed:-

- When a planning application has been deferred following a resolution not to accept the officer recommendation, the Chair shall put to the meeting a proposed statement of why the recommendation is not considered acceptable, which, when agreed by the Committee, will be formally recorded in the minutes.
- In these circumstances, at a subsequent meeting, the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development will respond in a further written report the provisional reasons formulated by the Committee for granting or refusing permission. If the Planning Committee is still of the same view, then it shall again consider its reasons for the decision and a summary of those planning reasons shall be given. The reasons will then be recorded in the minutes of the meeting.
- The officer attending the meeting should be given the opportunity to explain the implications of the decision.
- Members should ensure they clearly identify and understand the planning reasons leading to this conclusion. These reasons must be given before the vote and be recorded.

iii. Where an appeal to the Secretary of State is subsequently lodged against a decision which was different to the officer's recommendation, planning officers will act as a professional witness at the inquiry or hearing unless there is reason to suggest that this would prejudice the outcome. However, it should be noted that where the Planning Officer giving evidence is the officer that recommended approval, then their role is that of advocate for the Council's case.

8.8 Deferred applications

i. In some cases, planning applications may come before the Committee on more than one occasion. This is particularly the case with larger schemes where a pre-application presentation and/ or an Issues report (a report which describes the stage a proposal has reached and the main issues involved) is presented to the Planning Committee, or when an application is deferred for a site visit or further information. Where an application is deferred then the reasons for deferral will be clearly stated and minuted.

8.9 Public speaking

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place and during this time all public speaking is suspended. Any ward members or members of the public wishing to make representations to the committee following the publication of an agenda can only do so by the submission of a written statement in accordance with the revised public speaking protocol.

~~i. All Members are entitled to speak at a Planning Committee meeting in accordance with the provisions in the Protocol for public speaking at the Planning Committee. The length of time Members may speak for and at what stage of the process is outlined in this protocol.~~

ii. Where Members have a disclosable pecuniary interest in the application then they must not ~~spea~~**submit representations** in relation to the application, even as a member of the public. ~~Instead, the Member must leave the room during that item and not take any part in the discussion or vote on the application, unless they have a dispensation from the Head of Paid Service.~~

iii. Speakers will only be entitled to address the Committee on one occasion unless otherwise agreed by the Chair of Planning Committee on the grounds that the application has been significantly changed or amended or significant new information has been produced raising new material planning considerations. In these circumstances, speakers will only be able to speak about new matters or the amended details and not about matters which have been previously considered by the Committee.

iv. Speakers should not raise any substantial new information (including correspondence, other documents, photographs or models) at the Planning Committee meeting, as this does not give all parties adequate time to consider and respond to the submissions, and Members of the Committee will not be able to give proper consideration to issues raised in the material.

v. It is important that members of the public are not permitted to communicate with or pass messages to individual Committee Members as this may give the appearance of partiality.

8.10 Site Visits

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place and during this time members are not able to request that a Planning Committee site visit take place.

~~i. Members should try to attend organised site visits as they can be a helpful part of the decision making process.~~

~~ii. Members' site visits are a fact finding exercise which allow Members to gain further information on a specific issue(s), to assist Members to gain a better~~

~~understanding of the proposal and can help to make a more informed decision. Usually site visits are agreed in consultation with the Chair in advance.~~

~~iii. Members are able to request that a site visit takes place, but Members will need to consider and provide planning reasons why visiting the site is of benefit. At Planning Committee meetings the name of the Member requesting the visit and the reasons for the visit will be recorded as part of the minutes. A site visit is only likely to be of benefit if:~~

- ~~• There are significant policy or precedent implications and specific site factors need to be carefully addressed; and/or~~
- ~~• Details of the proposed development cannot be ascertained from plans and any supporting information to Members satisfaction at the Planning Committee; and/or~~
- ~~• Where design considerations are of the highest importance particularly in relation to the surrounding locality; and/or~~
- ~~• There is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing, or the proposal is particularly contentious.~~

~~iv. Site visits will operate as follows:~~

- ~~• The site visit is under the control of the Chair of the Planning Committee~~
- ~~• Members should listen and may ask questions of fact from the applicant or other parties, but should avoid entering into a debate concerning the merits of the proposal~~
- ~~• Members should remain together as a group throughout the visit~~
- ~~• It is recommended that Members who declare a disclosable pecuniary interest in such items should not attend the Committee site visit in relation to that item.~~

~~v. Site visits are not intended as an opportunity for objectors, applicants or others to lobby Members or argue their case. Members should remain impartial; they must not appear to favour one or other party and must avoid reaching a final decision until all views have been presented at the subsequent Planning Committee meeting.~~

~~vi. Results of the site visit will be reported to the next available meeting of the Planning Committee and should any new material considerations have been identified the application will be deferred for a further report.~~

8.11 Member training

i. It is important that all Members involved in the planning process are aware of their role in the process and the policy and legal framework in which they operate.

ii. Therefore, Members serving on Planning Committee ~~must attend~~ **should participate in, where possible** as a minimum, the following compulsory training each year:

- For Members new to the Planning Committee two sessions comprising a governance and conduct session and mid-year update session;
- For experienced Members of the Planning Committee, a single mid-year update session.

iii. A record of attendance for the compulsory training will be maintained by Planning Officers and a list provided to Party Whips and Democratic Services for monitoring.

iv. Other specialised training will be offered, **where possible**, periodically throughout the year which will enhance and extend Members' knowledge of planning matters. These are not compulsory but will assist Members in carrying out their role on the Planning Committee.

8.12 Reviewing and Updating this Guide

i. The responsibility for reviewing and updating this Planning Code of Good Practice will be undertaken by the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development in consultation with a meeting of the Planning Committee on an annual basis. Ad hoc reviews may occur if there are significant changes to be made; again these will be considered by a meeting of the Planning Committee.

8.13 Guidance Note on Bias and Predetermination in the Planning Process

What is Bias and Predetermination?

i. The law on bias and predetermination (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly.

ii. Decision makers are entitled to be predisposed to particular views. However, predetermination occurs where someone closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.

iii. The leading case on local authority bias and predetermination acknowledges the difference between judges sitting judicially and councillors making decisions in a democratic environment. Given the role of councillors, there must be 'clear pointers' before predetermination is established.

Section 25 Localism Act 2011

iv. Section 25(2) of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because –

a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and

b) the matter was relevant to the decision.

v. The section makes it clear that if a councillor has given a view on an issue, this, considered in isolation, does not show that the councillor has a closed mind on that issue. So, the mere fact that a councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that councillor from being able to participate in discussion of that issue and to vote on it.

vi. Having said this, the use of the words ‘just because’ in section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of predetermination. This has also been the approach that the courts have taken to this issue. When considering whether predetermination has taken place they will consider all events leading to the decision (and also, where appropriate, those following the decision) rather than looking at individual events in isolation.

vii. The case law has also made it clear that the words used by particular Members and the interpretation put on those words is of particular importance. So care still needs to be taken when making statements in advance of the determination of planning applications as there is a risk that they can be misinterpreted or taken out of context.

Guidance

viii. With this in mind:-

- It is always advisable to avoid giving the impression that you have made up your mind prior to the decision making meeting and hearing the officer's presentation and any representations made on behalf of the applicant and any objectors.
- It is advisable not to give a view in advance of the decision. If you do comment on a development proposal in advance of the decision, consider using a form of words that makes it clear that you have yet to make up your mind and will only do so at the appropriate time and in the light of the advice and material put before you and having regard to the discussion and debate in the Committee meeting.

- Particular care should be taken where there are chance encounters with objectors to development proposals or in the context of meetings which are not formally minuted. These are situations where the risk of what you say being misrepresented or taken out of context is particularly high.

Concluding Comments

ix. Councillors should avoid giving a view/ making statements in advance of determination of a planning application. If such views are given, these should be declared to the Planning Committee and legal advice should be sought if necessary as to whether that particular Member can continue to be part of the decision-making process. Any views given in advance should avoid giving the impression that you have already made up your mind and that your part in the decision is a foregone conclusion.

8.14 Protocol for public speaking at the Planning Committee meetings

Introduction

- i. This Protocol sets out the procedures to allow public speaking at the meetings of the Planning Committee.
- ii. Subject to the exceptions below, public speaking does not apply where Members are considering a report for information or where Members are considering detailed reasons for refusal or conditions of approval following a decision of an earlier Committee not to accept the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development recommendation. It also does not cover applications subject to non-determination appeals, where Members' views may be sought.

Procedures

Pre-application presentations

- iii. Pre- application presentations are a valuable part of the planning process and allow information to be shared at an early stage, proposals to be altered and amended prior to the submission of a formal application and for applicants to take on board comments from Members of the Planning Committee.

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place and during this time applicants or agents will not be able to present their proposal direct to the Planning Committee. Any presentations will be electronically submitted to the planning officer.

- ~~iv. Agents or applicants have the opportunity to present their proposal to the Planning Committee for a maximum of 10 minutes.~~

~~v. At this stage no formal decision will be taken by the Planning Committee and Members may ask questions to seek clarification on any points arising.~~

Issues Reports

vi. Issues reports are part of the three phase process for determination of a planning application usually on large, complex or sensitive schemes and are brought to provide an update to the Committee. Issues reports are provided for information to make Members aware of the main issues raised by a large scheme and no decisions will be taken by the Planning Committee at this stage.

Matters for determination or other matters requiring a decision

During the Covid 19 pandemic only virtual Planning Committee meetings are taking place and during this time all public speaking is suspended. Any members of the public wishing to make representations to the committee following the publication of an agenda can only do so by the submission of a written statement in accordance with the revised public speaking protocol below.

Any reference to ‘speak’ refers to written representations and any reference to ‘speaker’ refers to an individual submitting written representations.

In order for a written submission to equate to three minutes speaking time, the submission shall be no more than 1 side of A4 and be typed on 1.5 line spacing using Arial type face no smaller than 12 font. No drawings, photographs, graphs or any other visual aid will be permitted.

vii. Applicants, supporters and objectors to an application or other form of consent before the Committee for determination or other matter requiring a decision, will normally be allowed to ~~speak~~ **submit written representations** to the Committee, subject to the details of the procedure set out ~~below~~ **herein** and on giving notice of their wish to do so to the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development by no later than 12 noon on the ~~Monday~~ **Friday** immediately preceding the Committee. **The written submission itself must be emailed to Committee Services by 12 noon on the Monday immediately preceding the Committee.**

viii. Applicants, supporters or objectors will have **the equivalent of** a maximum of three minutes to address the Committee. ~~At the discretion of the Chair additional time may be allowed; this additional time will be offered to both supporters and objectors.~~

ix. In the event of more than one applicant, supporter or objector wishing to ~~speak~~ **submit written representations**, a spokesperson should be nominated **who will**

submit written representations on behalf of all registered speakers. If there is no spokesperson nominated, the written submission will be equally divided between the registered speakers. ~~However, at the discretion of the Chair more than one speaker for each side may be allowed, provided that the time is shared and the total presentation does not exceed the three minute time limit.~~

x. Where an application is recommended for approval, objectors to an application will be invited to speak **heard** first. ~~After both parties have spoken Members of the Committee may ask questions and seek clarification of any point arising and only officers are allowed to respond.~~

xi. Where an application is recommended for refusal, the objector will only be allowed to speak if the applicant or supporter has registered their intention to address the Committee, except in circumstances outlined in paragraph xiii. ~~After both parties have spoken Members of the Committee may ask questions and seek clarification of any point arising and only officers are allowed to respond.~~

xii. The applicant, supporter and objectors shall take no further part in the Committee debate ~~but may answer questions of fact put by the Chair to clarify matters arising during the debate.~~

xiii. If the applicant or supporters do not speak in relation to an application recommended for refusal the objectors will not normally be invited to speak.

xiv. If no objector wishes to speak to an application for approval, the applicant or supporter will not normally be invited to speak.

xv. In the circumstances where the officer's recommendation of approval is not accepted by Committee and the applicant or supporters have not been given an opportunity to speak, they shall be given the opportunity to address the Committee for up to three minutes when detailed reasons for refusal are reported. ~~Members of the Committee may then ask questions and seek clarification of any point arising.~~

xvi. In the circumstances where the officer's recommendation of refusal is not accepted by Committee and the objectors have not been given the opportunity to speak they shall be given an opportunity to address the Committee for up to three minutes when detailed conditions for approval are reported. ~~Members of the Committee may then ask questions and seek clarification of any point arising.~~

xvii. For the avoidance of doubt applicants, supporters or objectors will only be entitled to address the Committee on one occasion unless otherwise agreed by the Chair on the basis that the application has been significantly changed or amended or significant new information has been produced raising new material planning considerations. In these circumstances, speakers should only speak about new matters or the amended details, not about matters which have been previously considered by the Committee.

Passing around of information

xviii. The circulation of materials will not ~~normally~~ be accepted during the meeting. Public speaking is an opportunity to highlight important points already made in representations, rather than to introduce new information. Members of the Committee will not be able to give proper consideration of any new issues raised in the material.

Members of Planning Committee

xix. A Member of the Planning Committee having a disclosable pecuniary interest in an application must either declare that interest or bring it to the attention of the meeting and may not participate in the discussion or vote on the matter and must leave the room.

xx. In line with the Birmingham Code of Conduct for Members, a Member must declare any interest in an application and complete the Register of Interest/Conflict of Interest Form.

xxi. No Members with a disclosable pecuniary interest (whether they are a member of the Planning Committee or not) are entitled to address the Committee in accordance with the terms of this protocol for public speaking.

Review

xxii. This Protocol may be reviewed, revised or revoked by the Director (Inclusive Growth) or Assistant Director Planning/Assistant Director Development in consultation with a meeting of the Planning Committee at any time.

Note:

For the purposes of this code, reference to ‘attending’ a meeting of the Planning Committee includes reference to attendees being in more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.

Birmingham City Council

Planning Committee

23 April 2020

I submit for your consideration the attached reports for the **City Centre** team.

<u>Recommendation</u>	<u>Report No.</u>	<u>Application No / Location / Proposal</u>
Approve – Conditions	7	2020/00601/PA Land bounded by Curzon Street, Eastside Park & Moor Street Queensway Birmingham B4 Application under Schedule 17 of the High Speed Rail (London to West Midlands) Act 2017 for new public realm hard and soft landscaping works
Approve – Conditions	8	2020/00602/PA Land bounded by Curzon Street, Eastside Park & Moor Street Queensway Birmingham B4 Application under Schedule 17 of the High-Speed Rail (London to West Midlands) Act 2017 for a new station comprising concourses, roof, viaduct, platforms, earthworks, permanent lighting and all other associated works
Approve – Conditions	9	2020/00610/PA Land bounded by Curzon Street, Eastside Park & Moor Street Queensway Birmingham B4 Application under Schedule 17 of the High Speed Rail (London to West Midlands) Act 2017 for new enhanced public realm hard and soft landscaping works
Determine	10	2019/04239/PA Former CEAC building corner of Jennens Road & James Watt Queensway City Centre Birmingham B4 7PS Erection of one 51 storey tower and one 15/16 storey tower containing 667 dwellings (Use Class C3) with associated ancillary spaces, landscaping and associated works

Committee Date:	23/04/2020	Application Number:	2020/00601/PA
Accepted:	24/01/2020	Application Type:	High Speed Rail (London to West Midlands) Act 2017
Target Date:	01/05/2020		
Ward:	Bordesley & Highgate		

Land bounded by Curzon Street, Eastside Park & Moor Street
Queensway, Birmingham, B4

Application under Schedule 17 of the High Speed Rail (London to West Midlands) Act 2017 for new public realm hard and soft landscaping works

Recommendation

Approve subject to Conditions

1. Background

- 1.1. This application, for the landscaping associated with the northern terminus station of Phase 1 of the new High Speed 2 railway connecting Birmingham to London Euston via Birmingham Interchange and Old Oak Common (west London). This application is made via Schedule 17 (S17) of the High Speed Rail (London – West Midlands) Act 2017 ('the Act') rather than the usual planning regime
- 1.2. The later phases will ultimately connect Birmingham to London, Manchester and Leeds. This is a major project of national importance that will be progressed over several years, by two further Hybrid Bills through Parliament. Within the city HS2 Phase One will include a new rail line from Water Orton through Castle Vale, Bromford, and Saltley to this new City Centre station at Curzon Street. Phase 2A, between the West Midlands and Crewe, is currently being progressed through a further Hybrid Bill in Parliament with Royal Assent anticipated shortly once the new parliament have concluded that the bill should resume. A third Hybrid Bill for Phase 2B between Crewe and Manchester and the West Midlands and Leeds is in its development stage and will be deposited in Parliament this.
- 1.3. The Act grants deemed planning consent for the station subject to further approvals being sought for certain matters as set out in S17 DFT guidance can be found [here](#). The grounds for consideration are set out later in this report. This detailed design follows extensive pre-application discussions with HS2 including at the Independent Design Panel, the conclusions of which are included within the submission. This design is at a relatively detailed stage and supersedes the reference design that supported the Act's progress through the parliamentary process.
- 1.4. The supporting statements show potential future commercial developments around the station. These are not for consideration as part of this application and would sit outside of the Act (and therefore subject to the regular planning consent regime). Therefore, no weight should be given to these in the determination of this application.

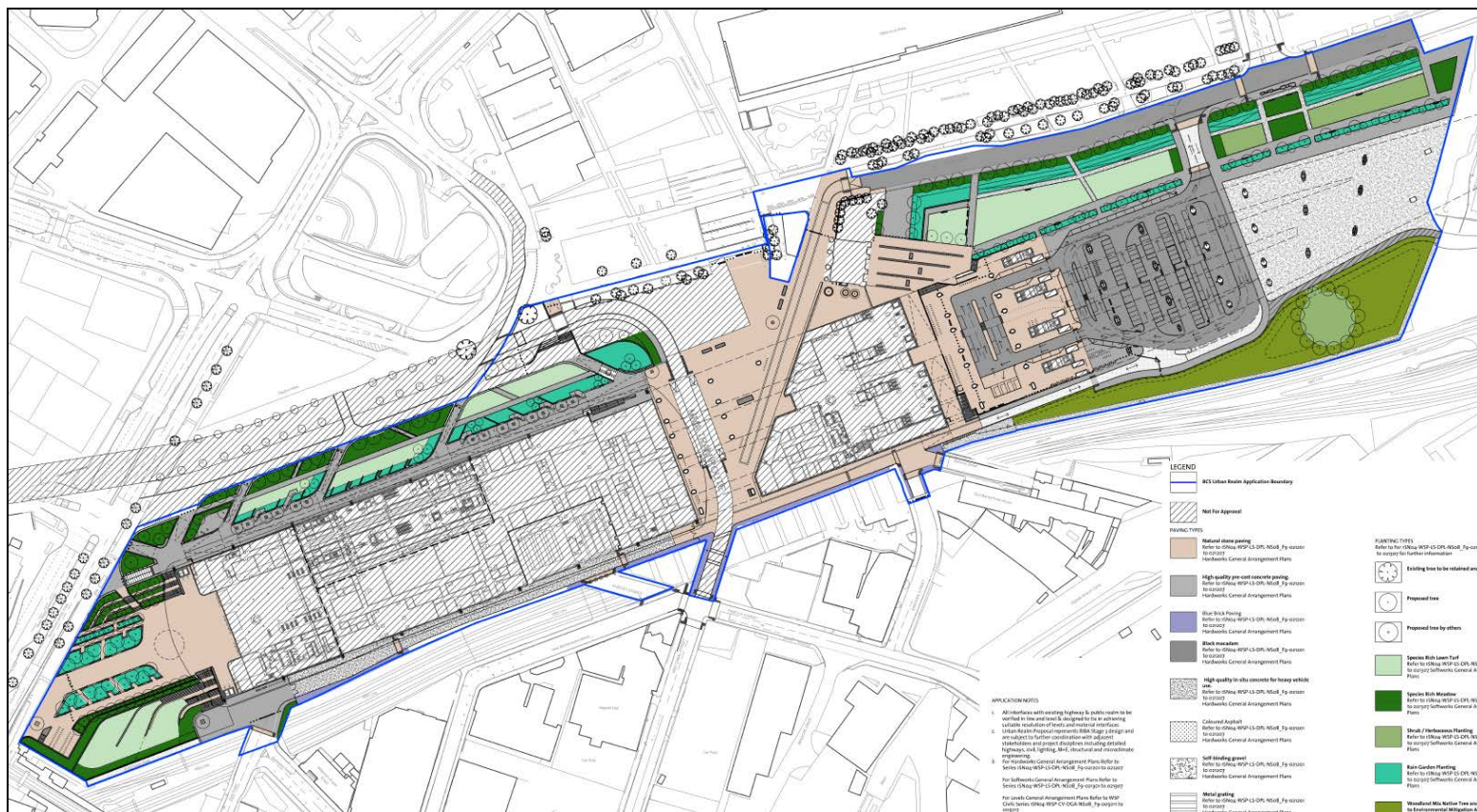
1.5. [Link to Documents](#)



Curzon Promenade and oblique view of station

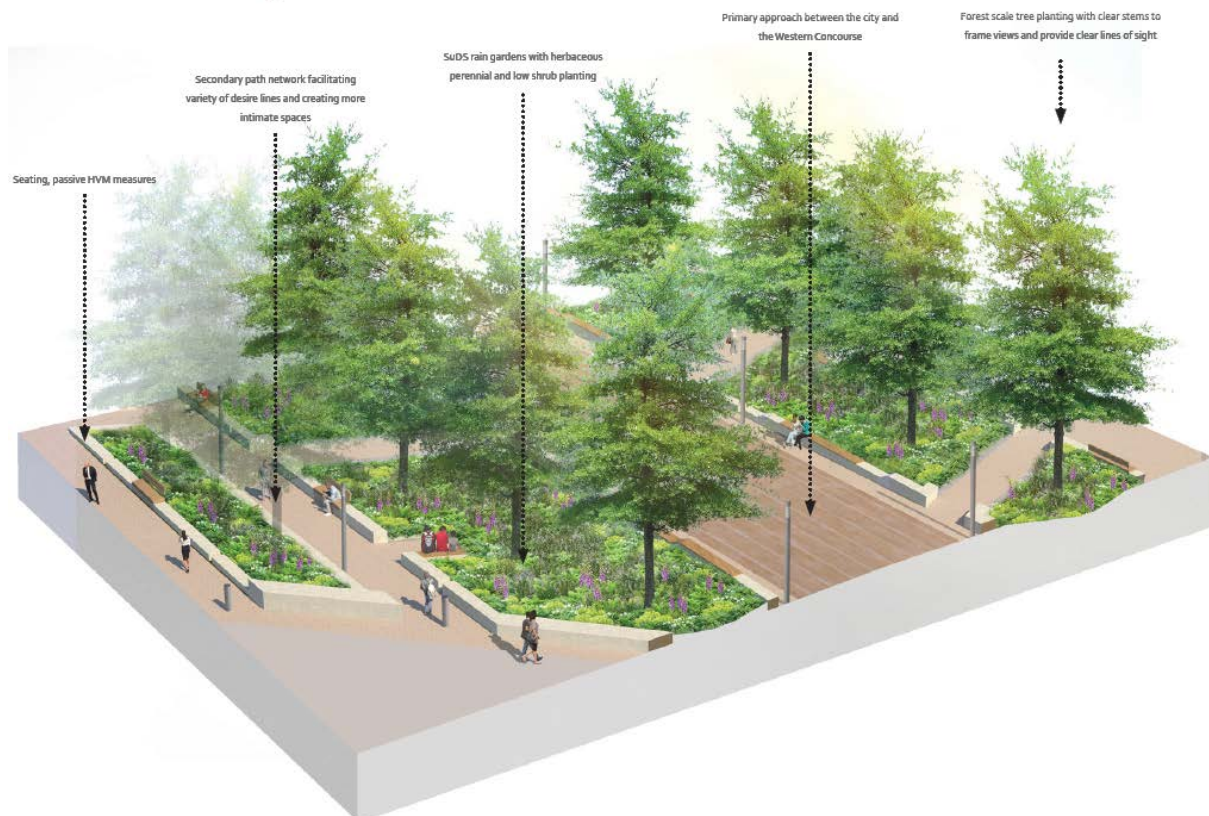
2. Proposal

- 2.1. This application concerns the landscaping around the station building only. Two separate accompanying Schedule 17 applications provide the detail of the station building and an enhancement and extension to the public realm shown in this application. A further Town and Country Planning application for additional public realm including partly bridging over the RBS railway line (known as Paternoster Place) will follow.
- 2.2. The station building is roughly orientated north-east to south west and manages a significant change in levels across the site. The station and surroundings are the first major S17 applications to be submitted in this area and therefore there are no consents in place for the detail of the viaduct structure coming into the Eastside area as set out in the supporting documents. However, detailed discussions have been taking place with the main works contractor to coordinate these two pieces of infrastructure, and applications will be coming forward in due course.
- 2.3. The overall vision of the urban realm design is to provide a strong identity and sense of place and create a stimulating sense of arrival that is warm; welcoming; legible and provide a sense of relief and calm before continuing a journey. Connectivity is also a key design driver, with the design planned to draw people to the site with a variety of new public spaces of different scales to provide opportunity for people to gather and hold events. Sustainable Urban Drainage rain gardens have been incorporated where possible in the proposed soft landscaped areas.



Station Square

- 2.5. This new public space bounded by the Rugby-Birmingham-Stafford (RBS) railway line to the south (in cutting), Moor Street Queensway to the west, Curzon Promenade and Clayton Hotel to the north and the principal station entrance to the east is the 'signature' arrival space from the station and will be the first experience of the city for the majority of train passengers exiting the station. It also provides the setting for the entrance to the western concourse of the station building.
- 2.6. In recognition of its status as an important new public space the overall design of the landscape is high quality with tree planting of significant scale and is designed in a civic and ordered style.
- 2.7. In recognition of the need to create a world class gateway and arrival space and the scale of the station building this area measures approximately 80m wide at its widest point and over 100m long at its longest. This irregular shaped space includes space for the Big Art project's Station Clock Public Art at the threshold of the projecting station canopy. This is sited at the confluence of routes from the surrounding city including steps and lifts to Curzon Promenade and Paternoster Place and a 10m wide accessible path leading to Moor Street.
- 2.8. Either side of this processional route would be a series of large feature trees with the preferred species currently Redwood. Significant areas of tree planting are shown either side of these.
- 2.9. A terraced meadow/lawn area is shown on the southern side of the square. This would provide opportunities to rest on a sunny day. Whilst some of this area may be affected by further development that is not for consideration at this time. Cycle parking is included on the Moor Street side of this area.



Curzon Promenade

- 2.10. The promenade connects Station Square/Moor Street Queensway to Curzon Square to the east and negotiates a significant drop in levels. The promenade is approximately 260m long X 36m wide and runs along the north-western edge of the new station and is bounded to the north by the new tramway and bus interchange area (with the Clayton hotel beyond).
- 2.11. This space's core function is primarily based around pedestrian movement and connectivity but makes the most of soft landscaping with a parkland character. The route up against the station building comprises a generous 6-11m wide walkway that gently traverses the challenging topography. The walkway would have an average gradient of 1:21 and include areas of level landings (e.g. at building entrance thresholds) and opportunities for rest along its length including planned resting areas with benches off the main walkway together with seating on top of the wall running along the route.
- 2.12. Outside of the principal walkway area there would be a series of narrower paths providing additional connectivity, including to the proposed bus interchange (as part of the tramway scheme). A significant proportion of the Curzon promenade area is given over to naturalistic planting that includes shrubs and trees. Areas of lawn are also proposed as is an area of terraced garden with seating at the western end. A number of the soft planted areas would form rain gardens that would provide a sustainable method of managing water from the station and public realm areas.



Curzon Square

- 2.13. This area is sited around the Eastern Concourse at the termination of Curzon promenade and includes public spaces in front and around the Grade I station and to the rear of the Woodman Public House and underneath the viaduct above New Canal Street.
- 2.14. This area performs three key functions, one is to provide an area of transition between existing and proposed urban realm to all sides; to provide an appropriate

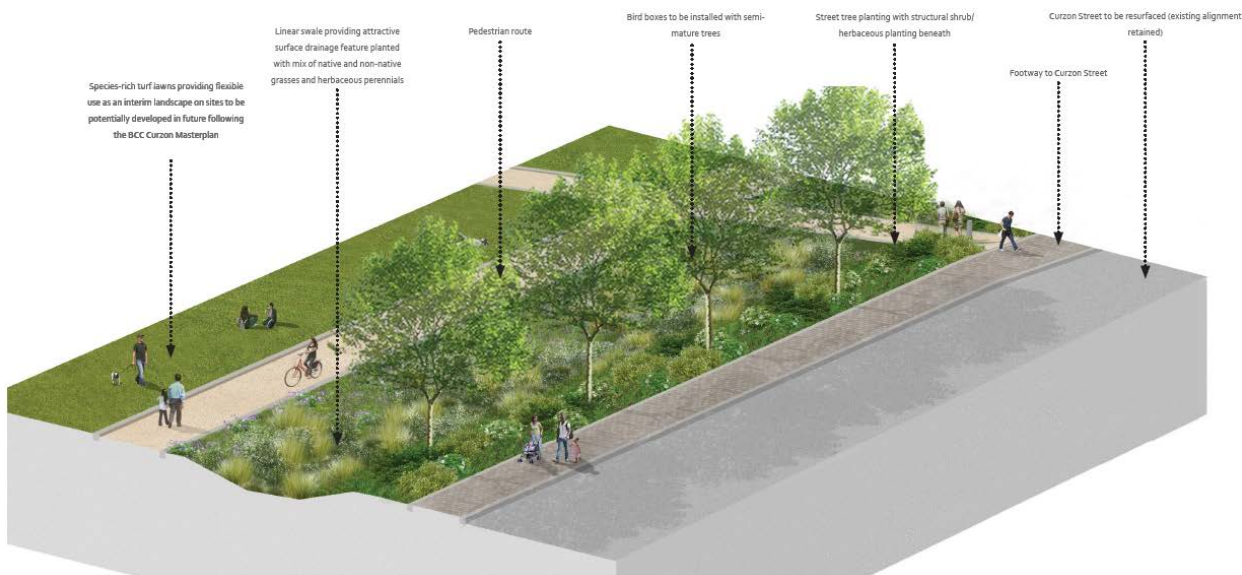
setting to the adjacent listed buildings and finally to provide an enlarged event space.

- 2.15. The area is largely a paved area with the use of a high quality natural material (porphyry and granite). The detailed design of the landscaping provides a clear and logical transition into the existing Eastside City Park. Whilst the area in front of the Eastern Concourse would be pedestrian/cyclist and emergency vehicle access only, the former line of New Canal Street would be demarcated in the paving pattern, reinforced by the building line of the concourse. A flexible lawn space is shown on this application; the accompanying application to enhance this proposes additional landscaping.



Curzon Street and Eastern Arrival

- 2.16. The eastern arrival space consists of the proposed car park and taxi drop off area beneath the eastern end of the platforms and viaduct structure. Paving at the concourse area would continue the use of high-quality natural materials, with the road surface being a more functional tarmac.
- 2.17. The area to the rear of the Grade I listed building would form a largely hard paved space with recognition of the former use and archaeology of this space in that the former platforms are to be marked out in the paving.
- 2.18. The wider Curzon street zone would consist of soft landscaping including shrubs, trees and lawn areas. The footway to Curzon Street would be upgraded with new concrete pavers.
- 2.19. Beyond the car park there is an area of resin bound gravel beneath the viaduct that is intended as flexible space whilst further potential uses of this area are developed.



Paternoster Place

- 2.20. Under the non-enhanced urban realm proposals, the area at the bottom of the steps to the south of the western entrance to the station at the head of Bordesley Street/Park Street would be repaved and gateway signature tree planted to soften this environment at this lower level. The station's service road would exist onto Paternoster Place onto Park Street.

Environmental Mitigation Zone

- 2.21. As part of the ecological mitigation and enhancement of the wider station design, and in accordance with the Environmental Statement an area between the proposed and existing railway lines would form a fenced off zone with planting to maximise the ecological potential of the site. Views into the area would be provided through the proposed fencing however general public access would not be provided. In addition, the location of the train engine turning facility (roundhouse) would be marked as a woodland glade around the turning area where a rockier habitat which is compatible with any surviving archaeology would be provided.
- 2.22. In terms of cycle access, the principal routes include east-west along Curzon promenade and into Eastside City Park; through the station car park area to Andover Street; and in front of the eastern concourse also connecting to Andover Street. A route is not shown beneath the existing viaduct along New Canal Street due to the street width and the proposed tramway infrastructure. Extensive cycle storage is proposed around the station, with facilities provided within the car park/dropping off zone that would be under cover of the viaduct structure.
- 2.23. In terms of parking, there is no long-term public car parking at the station but an extensive taxi drop off area is proposed directly to the east of the eastern concourse together with short stay, kiss and ride and staff parking facilities as follows:
- Kiss and Ride: 5 bays
 - Short stay: 45 spaces with a 5% disabled provision
 - Taxi drop off: 5 bays
 - Taxi pick up: 3 bays for simultaneous waiting plus capacity for 39 waiting
 - Staff Parking: 26 spaced including 5% disabled provision

Supporting Information

- 2.24. This application is supported by a comprehensive suite of plans which are submitted for approval. The other supporting information, which comprises of the Design and Access Statement, a Written Statement, Submission Letter, Indicative Mitigation Letter, and location and application boundaries plans have been submitted for information only.

Indicative Mitigation

- 2.25. As set out in the Planning Memorandum and Planning Forum Note 10, this application includes indicative mitigation. Indicative mitigation may relate to ecological, landscape, community and/or operational noise from the railway or roads impacts. Mitigation is provided for comment only at this stage and is not for formal consideration at this stage. A further application (bringing into use) would consider the adequacy of the mitigation proposed, however the indicative mitigation shown in this application is an early chance to comment on the proposals (focusing on the scope, any additional mitigation that could reasonably be required, and comments on the design of the proposed mitigation). Any comments made in relation to the mitigation are without prejudice and there is no obligation to provide comments.
- 2.26. The supporting consultation letter provided within this application states that the proposed mitigation for the station and viaduct consists of:
- Extensive landscaping strategy which spans the length of the site that features both native and non-native species as set out in the supporting Design and Access Statement (at 5.3) and plans on the accompanying applications
 - An Environmental Mitigation Zone situated between the existing RBS line and the HS2 railway. This will comprise of native broad-leaf woodland whip and transplants in a wildflower grassland
 - Sustainable drainage as set out in the Design and Access Statement (7.3)
 - Biodiversity enhancements as set out in the Design and Access Statement (7.4)

3. Site & Surroundings

- 3.1. In the wider city context, the station's location is within the Eastside locality between the education quarter (BCU and Aston University campuses) to the north and the creative quarter of Digbeth to the south.
- 3.2. The boundaries and envelope for the station and public realm are within the Limits of Deviation defined in the HS2 Act and the designs set out in this application fully accords with these limits. These limits of deviation (LOD) are illustrated on a number of the application drawings.
- 3.3. The application boundary of the public realm is irregular in shape but wraps around the west, north and east of the station and also includes areas beneath the viaduct structure. In term of levels, West of New Canal Street the site rises significantly in level to Moor Street with a 15m difference in level between the former Curzon Street Station and Moor Street. Beyond New Canal Street to the east the site is relatively level. Levels also generally fall from Park Street towards the new station building.
- 3.4. The new station would sit to the east of Moor Street, south of the Clayton Hotel and Eastside Park, bridging over New Canal Street immediately to the south of the Grade I listed Curzon Station terminating within the large cleared area of land to the

south of Curzon Street. The Rugby-Birmingham-Stafford (RBS) line runs to the south of the new station, partly on viaduct and partly in cutting. The site incorporates part of Fazeley Street which will be stopped up to make way for the station. The Digbeth Branch Canal forms the eastern boundary.

- 3.5. Much of the western part of the site previously formed burial grounds. An extensive programme of exhumations and recording work has been undertaken. In addition, the archaeological investigations have explored the remains of the Curzon Street Station yard, the Freeman Street Baptist Meeting House and burial ground and the Grand Junction Railway Station.
- 3.6. In order to facilitate these works much of the site that is not part of Eastside Park, the Woodman and Eagle and Tun Pubs or public highway is currently cleared and bounded by hoardings. A separate project to secure the refurbishment and re-use of the city owned Grade I listed former Curzon Station building in the short to medium term in conjunction with HS2 is currently underway. Café and exhibition space is proposed at ground floor level with offices above.
- 3.7. Heritage assets in and around the site include the Church of St. Michael (Grade II); Woodman Pub (Grade II); Old Curzon Station (Grade I); Gun Barrel Proof House (Grade II*); Old Moor Street Station (Grade II); former Christopher Wray (Grade II); and Railway Bridge over Digbeth Branch Canal (Grade II). The Fox and Grapes public house has been demolished in 2018 and has since been de-listed. In addition, a locally listed (Grade B) former public urinal on Banbury Street appears to no longer be in situ. The Eagle and Tun public house (locally listed grade B) would be demolished as part of the proposals. The Digbeth, Deritend and Bordesley High Street and Warwick Bar Conservation Areas are situated to the south of the RBS railway line. Other heritage assets impacted would be the remnants of the old station building fronting Curzon Street and remaining buried archaeology.
- 3.8. [Site Location](#)

4. Planning History

- 4.1. A Compulsory Purchase Order was confirmed by the Secretary of State in relation to land associated with the delivery of the removal of Masshouse Circus as part of the removal of the city centre's 'concrete collar' with the highway works undertaken in 2002. Also, in 2002 a planning application for a much wider area than the current application site was submitted for a comprehensive scheme including offices, residential, food store, leisure, hotel and education buildings. Land ownership was subsequently consolidated by a further Compulsory Purchase Order granted in 2004.
- 4.2. This was followed by a series of consents across this site for a variety of uses including a new library of Birmingham, University Campus, residential, office and retail development.
- 4.3. The HS2 project was launched in November 2013 and following the parliamentary process the Hybrid Bill secured Royal Assent in February 2017. Using compulsory purchase powers HS2 have since acquired much of the land where the station and public realm will be sited.

5. Consultation/PP Responses

Appropriate Bodies

- 5.1. Whilst the Act only requires consultation with three consultees ('appropriate bodies'), namely Natural England; the Environment Agency; and Historic Buildings and Monuments Commission for England (known as Historic England) a much wider consultation exercise has been undertaken.
- 5.2. Environment Agency – Raise no objection and comment that they welcome the vision for the landscaping which will play a key role in creating a sense of place and connectivity around the area.
- 5.3. Historic England – Provide overarching comments on the three submission and comment that the major elements of the scheme are welcome.
- 5.4. They consider that the design of the station is traditional in the sense that it offers a large and elegant train shed covering about half of the length of the trains. Noting that externally the roof structure is expressed by fins (or buttresses) which bring the structure to ground. They note that the loss of the Eagle and Tun is regrettable, but it was never a realistic option to keep in terms of the requirements of the station construction and maintenance. The integration of the busses (in one of the busiest locations in the city, if not the country) has been considered in the design of the landscape. They note that the single north/south connection through the station to Digbeth will be widened and closed to vehicular traffic. They add that the connection to Paternoster Square is dependent upon the extent of the bridging of the Westcoast Mainline and that both routes need to be as attractive as possible. However, a number of issues that they consider still need to be addressed are highlighted as follows:
 - They remain disappointed at the level of animation on the north elevation. They recognise the considerable change in level and practical constraints of the manner in which the whole structure is dug into the ground but would still prefer to see the station more actively addressing the landscape in that direction to ensure that it is a desirable place to be.

- In respect of the setting of the Grade I (existing) Curzon Station they consider this to be disappointing in that whilst the screen wall being brought out to mark the street edge is a good idea they consider that it needs to be refined to produce a more elegant solution. They state that they do not wish to be prescriptive as to style, but it needs to reflect the strength of the Curzon building.
- Marking the location of platforms in the landscaping is welcome although they consider that this could go further (into the car park area). They welcome the marking of the location of the roundhouse (engine turning facility) in the landscaping which they now understand to be the first roundhouse in the world.

5.5. Finally, they note that the area to the rear of the Grade I building is not intended to be part of the permanent HS2 scheme and is likely to be developed when the land is released after the station. Whilst beyond the bounds of this submission the integration of this building into future development needs to be considered. As the nature of this future development has not been determined they consider the demolition of the fragments of wall of the Grand Junction Railway at the eastern end of the site premature. They consider this to be of considerable significance dating from the 1830's with their assessment of the significance of the principal building noting that "the base of the screen wall of the GJR station...reflects the work of Liverpool's most accomplished 19th century architects, and draws upon the triumphal arches of ancient Rome to form a symbolic gateway to the future".

5.6. Natural England – No objection. Consider that the proposed development will not have significant adverse impact on statutorily protected sites or landscapes.

Other (non-statutory) Consultees

5.7. Transportation Development – Have provided a consolidated response for the three current applications. They note four areas of concern regarding highway impact which have been regularly discussed through the design evolution of the project.

1. The servicing access to Fazeley Street/New Bartholomew Street/New Canal Street area does not provide suitable details of how vehicles access the site, and where they may need to wait for access to this secure area, or be made to leave the area if a delivery or servicing activity is not permitted. This is a complicated arrangement with the potential of vehicles not being allowed to enter the site because of insufficient space or because they have no 'booking' and have no area to turn away from the site without reversing back into the complicated signalized junction which is designed to accommodate pedestrians, cyclists, Metro and general traffic.
2. The turning head and servicing access to the Woodman pub and old Curzon Street Station need further design resolution to suitably accommodate the turning requirements of vehicles in a space that is also public realm where pedestrians and vehicles will mix. The area also needs provide for taxi, coach and bus manoeuvres as these regularly attend events at Millennium Point and park on Curzon Street.
3. The current layout is not commodious for cyclists and pedestrians with potential safety issues. They appreciate that the cycle route is within their site, however, there are currently cycle routes through this area and the proposals need to address how they will maintain accessibility. The service road will provide the only viable route for cyclists that does not involve dismounting and if it is also to provide a pedestrian route then it should be safe, legible and accessible. This is

also relevant for the points noted above, especially in relation to how cyclists negotiate the Fazeley Street/Metro junction.

4. The plans show pedestrian crossing facilities on Curzon Street and junction alterations and further detailed work is needed to refine this draft design to ensure suitable pedestrian facilities are provided along with maintaining the highway network capacity.
- 5.8. They also note that the proposal requires stopping-up of the public highway in several locations. Part of this is noted on the City records along Fazeley Street, but additional stopping-up is required on Andover Street and other small areas as a result of the detailed design now submitted for the development. They question whether this covered in other powers of the HS2 consent or need to be referenced as part of these proposals.
- 5.9. There has been additional dialogue between HS2 and Transportation Development to agree these concerns are mitigated with a recommended condition on servicing arrangements when these are definitively known, and a series of additional design responses which will formally be provided in future schedule 4 and schedule 17 submissions.
- 5.10. Regulatory Services – No Objection. They note that they are precluded from commenting on air, land and noise issues as there is provision under other legislation as well as the HS2 CoCP (Code of Construction Practice) and HS2 Local Environmental Management Plans (LEMPs). HS2 are required to engage with local authorities to develop the Birmingham LEMP. HS2 have informed me that the Birmingham 2017 LMEP will be updated to reflect individual and local changes. If problems regarding Air Quality occur in the future (including issues as a result of construction) BCC can require the Birmingham LEMP to be revised accordingly.
- 5.11. HS2 are liaising with Regulatory Services regarding Section 61 submissions to mitigate noise from construction. In relation to the operational phase feel that the noise should be sufficiently mitigated based on the information provided.
- 5.12. HS2 have also been engaging with the city in relation to land contamination.
- 5.13. Lead Local Flood Authority – Raise no objection. Note that they would ordinarily provide comments in relation to the detailed design of the station however understand that as this project falls within the HS2 Act of Parliament, it will comply with the agreed technical standards rather than be subject to the requirements of the adopted Birmingham Development Plan 2017.
- 5.14. Therefore their observations are based on the limited information included within the design and access statement, and ongoing collaboration with HS2 and their consultants to promote the integration sustainable drainage within the projects and to ensure that flood risk is not increased to third party land, and ensuring new buildings and infrastructure are resilient to surface water flooding.
- 5.15. They strongly support the provision of numerous SuDS features including rainwater garden and swales in addition to underground attenuation which supports our objective to achieve the key principles of SuDS; quantity control, quality control and biodiversity and amenity value within an iconic development.
- 5.16. Highways England – Although not relevant to this application, on the station application have no comment to make on this application on the basis that the proposals would not alter the volume of traffic on the Strategic Road Network above the levels shown within the Environmental Statement.

- 5.17. Birmingham Civic Society – Have provided combined comments for the applications and recognise the scale, complexity and technical constraints and congratulate the design team for developing to this point. They consider the landscaping to be thoughtfully design and high quality and note the positive impact this can have on visitors to the city, acknowledging the technical, resilience against terrorist attack, day to day security and maintenance requirements. In respect of heritage assets, they note that this part of the city has historically been dominated by rail infrastructure, and that the importance of HS2 as a new 'layer' of infrastructure of national importance serving the city justifies these heritage impacts, which are relatively minimal. They add that the loss of the Eagle and Tun public house is sad, but acknowledge this as one of many such buildings of such significance that will be impacted along the train line in less visible locations. In respect of security they consider that the Secured By Design approach, working with the police, should be followed to ensure that any current anti-social behaviour does not pose a risk to users of the station. Finally they consider that the ambition to limit car use around the station is to be applauded, but expect that the surrounding area will become highly congested at peak times and subject to opportunistic parking and drop offs around the officially imposed strategy but conclude that this is unavoidable without providing limitless parking spaces within the vicinity.
- 5.18. Canal and Rivers Trust – Considers that the Council should grant approval for the application subject to the following conditions/modifications:
- Amendments to the lighting scheme in the canal side area
 - Modification of the canalside surfacing materials
 - Modification of the canalside planting proposals
 - Additional details of the public realm works' interface with the canal
- 5.19. Network Rail – Consulted without response.
- 5.20. Severn Trent – No objections subject to the inclusion of a condition requiring the provision of foul and surface water drainage flow details.
- 5.21. West Midlands Fire Service – Confirm that there is continuing consultation with HS2 regarding access for fire and rescue purposes and water supplies for firefighting. Provide details of their access requirements for a fire tender and the internal arrangements within the building.
- 5.22. British Transport Police (BTP) – The BTP Designing Out Crime Unit are already engaged with HS2 regarding the designs of all proposed stations, including Curzon Street. They request that consultation with HS2 continues following the determination of this application.
- 5.23. West Midlands Police – Provide a single response to the three applications. They note that the proposed development would have the potential to increase crime and anti-social behaviour in the area and cite anti-social behaviour issues that have occurred in the nearby Eastside City Park. They add that lighting of the area should be consistent and note that there are pillars and recesses which could allow criminal activities to go unseen. They add that a comprehensive CCTV system should be installed. Detailed comments on the robustness of street furniture, glazing specification, alarm systems and security patrols of the station/public realm have been provided.
- 5.24. Cadent (gas) - Have apparatus in the vicinity and require the developer to contact them before carrying out any works.
- 5.25. Whilst the Act does not require any public consultation, in accordance with the paper brought before your committee on the 22nd December 2016 a comprehensive

consultation exercise such as carried out on a major planning application has been undertaken. Site and Press Notices have been posted and local occupiers and major landowners have been notified.

- 5.26. The accompanying Design and Access Statement (p.239) sets out the engagement undertaken by HS2 in relation to the station. This includes the activity of the independent Design Review Panel, targeted stakeholder discussions and public events.

6. Policy and Legislative Context

Policy

- 6.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan 2005 (saved policies); Car Parking Guidelines SPD; Places for All (2001); Warwick Bar Conservation Area Character Appraisal and Supplementary Planning Policies; Digbeth, Deritend and Bordesley High Streets Conservation Area; Access for People with Disabilities SPD; Car Parking Guidelines SPD; Lighting Places; Regeneration Through Conservation SPG; the Shopfronts Design Guide (SPG); National Planning Policy Framework (as amended).

- 6.2. Also, the non-statutory Birmingham Curzon HS2: Masterplan for Growth and the Big City Plan.

6.3. Local Policy

Legislation

- 6.4. The primary legislation is the [High Speed Rail \(London to West-Midlands\) Act 2017](#), which dis-applies and/or amends the typical legislative planning regime. Schedule 17 of the Act sets out the following considerations in respect of the works proposed for Qualifying Authorities such as the city. In addition, in February 2017 the Department for Transport issued Schedule 17 [Statutory Guidance](#) to all Qualifying Authorities.

Relevant part of schedule 17 and specific works being applied for	Possible Grounds for refusal of approval
<p>Structures (Sch17 part 1 para 2)</p> <p><i>Bollards, rain garden notched weirs, and planters.</i></p>	<p>That the design or external appearance of the building works ought to be modified—</p> <p>(i) to preserve the local environment or local amenity,</p> <p>(ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(iii) to preserve a site of archaeological or historic interest or nature conservation value, and is reasonably capable of being so modified, or</p> <p>(b) the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
<p>Earthworks Elements (Sch17 part 1 para 3(2))</p> <p><i>Earthworks</i></p>	<p>That the design or external appearance of the works ought to, and could reasonably, be modified—</p> <p>(a) to preserve the local environment or local amenity,</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c) to preserve a site of archaeological or historic interest or nature conservation value. If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
<p>Fences and walls (Sch17 part 1 para 3(2))</p> <p><i>Walls</i></p>	<p>That the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>

<p>Road Vehicle Park (Sch17 part 1 para 3(1))</p> <p>Car parking</p>	<p>That the design or external appearance of the works ought to, and could reasonably, be modified—</p> <p>(a)to preserve the local environment or local amenity,</p> <p>(b)to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c)to preserve a site of archaeological or historic interest or nature conservation value.</p> <p>That the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits</p>
<p>Artificial Lighting Equipment (Sch17 part 1 para 3 (2f))</p> <p>Lighting columns</p>	<p>That the design of the equipment, with respect to the emission of light, ought to, and could reasonably, be modified to preserve the local environment or local amenity.</p> <p>If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>

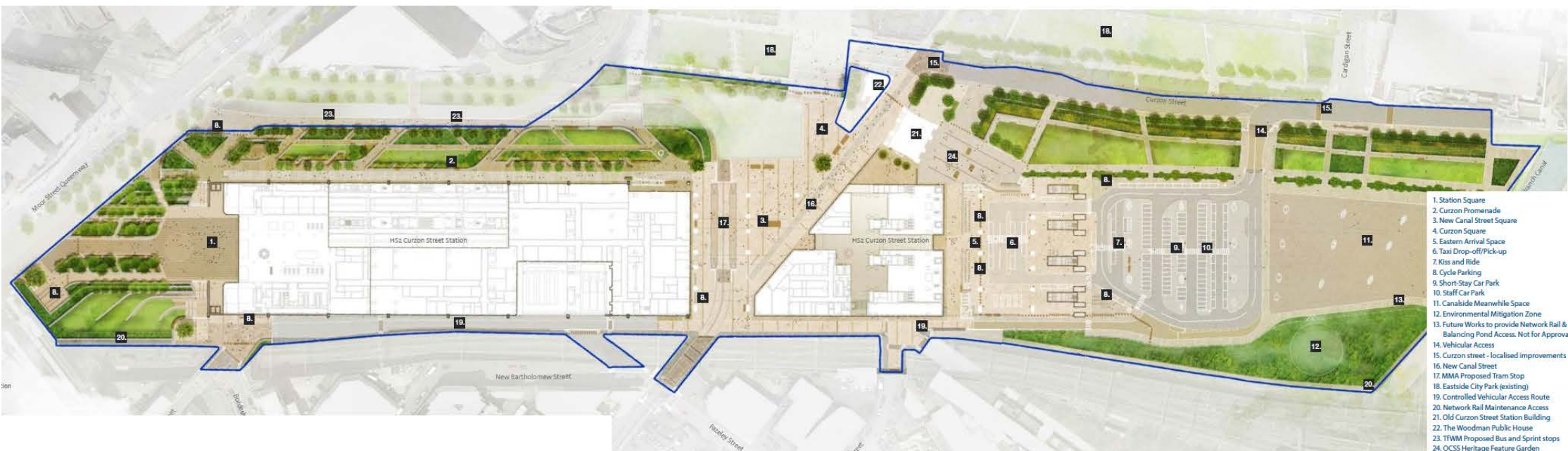
- 6.5. The proposed hard and soft landscaping and planting details also for agreement as details of site restoration in accordance with S17 Part 1 para 12 of the Act. References to conditions in respect of site restoration matters are technically items that are 'reserve[d] particulars for subsequent agreement' in accordance with the Act.
- 6.6. In addition to Schedule 17 the Act places other controls on development, some in the form of mandatory requirements other in the form of further submissions. Further highways consents are required pursuant to Schedules 4 and 33, drainage is also controlled through Schedule 33 and noise is controlled through Section 61 of the Control of Pollutions Act 1974. Finally, consent would be required through S17 for the proposed lorry routes to construct the station.
- 6.7. There is a [Class Approval](#) in place that controls ancillary development whilst the works are being constructed. This includes handling of soil/top soil; storage sites for construction materials; screening of works; temporary artificial lighting; dust suppression and road mud control measures. The Class Approval sets out the detailed requirements in relation to each of these matters, imposing conditions where relevant. These measures are enforceable through the usual planning enforcement regime.
- 6.8. In addition there are the [Environmental Minimum Requirements](#) (EMRs). This suite of documents set out overarching environmental and sustainability commitments. The EMRs consist of the following:
1. Code of Construction Practice (CoCP) – contains detailed control measures and standards to be implemented throughout Phase 1 of HS2.
 2. Planning Memorandum – Sets out the requirement of Qualifying Authorities (such as BCC) including participating in the national Planning Forum, and the

expeditious handling of requests for approval and appropriate resourcing. It also places requirements on the Nominated Undertaker (i.e. HS2) to engage in pre-application discussions, assist with resource planning and provide indicative mitigation where necessary.

3. Heritage Memorandum – provides the overarching approach to heritage matters including the establishment of a heritage sub-group of the Planning Forum. The Memorandum details how the investigation, recording and mitigation of impact to heritage assets will be undertaken. The Memorandum also provides an explanation that the Listed Building and Conservation Areas Act is dis-applied for the list of buildings set out in Table 1 of Schedule 18 of the Act. It also introduces the practice of securing legal agreements with local authorities and Historic England in cases where Listed Building Consent would ordinarily be required to control alterations/demolition/building recording activity. For BCC this consists of the methodology for the demolition of the Fox and Grapes (now undertaken) and recording of vibration of listed buildings adjacent to the new railway such as the listed viaduct which the new railway will cross over to the east of the Middleway and Curzon Station. The Memorandum also sets out the Government's approach to human remains and burial grounds.
 4. Environmental Memorandum – Sets out the overarching requirements on various environmental impacts of the scheme including nature conservation; ecology; water resources and flood risk; geological features; recreation and amenity impacts; landscape and visual; public open space; soils; agriculture and forestry; and excavated material. It also sets out the approach for key environmentally sensitive worksites along the route, although none of these are in Birmingham.
-
- 6.9. The EMRs also include the [Undertakings and Assurances](#) that HS2 have committed to. These set out a number of detailed requirements that HS2 have to meet, with a number given to the city about how the station will be brought forward.
 - 6.10. There is an information paper (E16) that details how landscaped areas will be maintained.
 - 6.11. The [HS2 Context Report](#) for Birmingham City sets out the broad legislative and approach to implementing HS2. It goes on to set out what works HS2 will be undertaking within the city (both permanent and temporary), landscape and restoration proposals, an early programme of Schedule 17 requests and a suite of plans to illustrate the above.
 - 6.12. In terms of managing the impact of construction traffic, in addition to the S17 approval of lorry routes, the Route wide Traffic Management Plan (RTMP) describes the principle and objectives for the management of transport, highways and traffic during the delivery of the works. Local Traffic Management Plans (LTMPs) will be issued along the route detailing the range of local controls and other significant works programmes for highways. There is a local Traffic Liaison Group where LTMPs and site specific traffic management are discussed.
 - 6.13. A series of [Planning Forum Notes](#) (PFN) have been agreed at the route wide Phase 1 Planning Forum. These provide guidance on a wide range of subjects including detailed procedural matters such as the content of submissions, model conditions, dealing with lorry routes, and indicative mitigation. There are currently 14 confirmed PFNs.



Curzon Promenade



Landscape Areas

7. Planning Considerations

Key Local Policy Context

- 7.1. The BDP recognises the overall benefits of HS2 helping to capitalise on the City's location at the heart of the UK's transportation network. GA1.2 states that any proposals for a HS2 station will need to be integrated into the area creating a world class arrival experience with enhanced connectivity to surrounding areas including Digbeth and the City Centre Core. Policy TP41 offers general support to the improvement of the city's rail network and TP39 sets out the requirement for the provision of safe and pleasant walking environments throughout the city. TP40 states the cycling will be encouraged through a programme of improvement to cycling infrastructure including routes and 'trip end' facilities, including railway stations.
- 7.2. TP12 sets out the city's approach to the historic environment, with great weight attached to the conservation of the city's heritage assets.
- 7.3. The non-statutory Birmingham Curzon HS2: Masterplan for Growth (July 2015) acknowledges the opportunity presented by HS2 and set the city's vision for the station and maximising the wider regenerative impacts of the station. Key themes set out in the document relate to connectivity, arrival experience, high quality public realm and world class architecture. Broad design visions for the wider Digbeth and Eastside areas are also set out, showing how the city could capitalise on the direct benefits of the train station.
- 7.4. As set out in paragraph 6.4, Schedule 17 includes a limited range of considerations and builds upon other controls in the Act. Each is considered in turn below.

Structures

Design or External Appearance

I) Local Environment / Amenity

Independent Design Review Panel

- 7.5. As a result of an Assurance with HS2 secured as part of the parliamentary process there is an independent Design Review Panel specifically for the station. This is distinct from HS2's own independent panel which assesses all other Key Design Elements along the route (KDEs) and has involved officers. The panel is not a decision-making body but acts as a critical friend to the project. As required, the panel's conclusions on the public realm are included within this application and set out in the Design and Access Statement. On the public realm the panel concluded that:
 - The panel found much to admire in the clear vision for the public realm surrounding the station, including different typologies for each space and the emerging tree and planting strategy. Proposals are both ambitious and deliverable
 - The panel suggests that the design team give further consideration to how the vision can communicate the influence of Birmingham's rich culture and heritage and that during detailed design a cultural narrative is developed

- Detailed consideration should be given to the usability and, in particular, who will use these spaces and what their needs are and that lessons are learnt from other such projects
 - They welcomed the overall tree and planting strategy, including the focus on selecting native and local species
 - During detailed design a review of the proposed species selection should take place e.g. pathogens effecting Plane trees and the use of Digitalis
 - The emerging ideas for habitat creation are welcomed and encourage the design team to investigate how this could be made more location specific
 - They make reference to the importance of ongoing maintenance, the need to integrate security infrastructure in a sensitive way and the potential impact that future commercial development could have around the station
- 7.6. As set out in paragraph 1.4 any further buildings around the station that are being explored as part of the commercialisation work stream by HS2 would not be within the Act and would require separate consent via the usual planning regime. Therefore, whilst the panel has made comments on this element of the wider project these are not material considerations for this current application. Comments in relation to the enhanced public realm and station are set out in the accompanying reports.
- 7.7.
- City Design
- 7.8. City Design Officers have been proactively engaged in pre-application discussions regarding the design of the station and public realm for over 2 years, helping to develop the design from a theoretical concept to a deliverable piece of high-quality architecture and public realm.
- 7.9. The City Design Officer comments that the overall ideas, concepts and design proposals are sound, and the scheme has the potential to deliver a distinctive, appealing, sustainable, robust and secure public realm of the highest quality. The design information submitted in support of the application is convincing, pointing to a well thought out proposal. The detailed drawings in particular demonstrate a scheme which could be constructed and delivered.
- 7.10. The public realm proposals would provide a multifunctional series of high-quality spaces with distinctive identities. These work with the proposed new station to create a new piece of the city centre with a strong sense of place. The overall layout is intuitive, permeable, and well connected to the city around it.
- 7.11. In addition to the delivery of an appropriate setting for the station building, the scheme would create a new pedestrian and cycle friendly environment, much of it car free, which would be a destination as well as an arrival point. The robust and well-designed hard landscaping would be appealing to both walk and cycle through, and there would also be spaces to sit and relax outdoors. The Midland Metro tramway is well integrated into the scheme.
- 7.12. Much needed green space would be provided in this part of the city centre. A series of green spaces would complete a green infrastructure connection from Moor Street Station to Eastside Park and Digbeth Branch Canal. Ambitious planting proposals following water sensitive urban design principles would be enormously beneficial in terms of sustainable drainage, biodiversity and climate change mitigation.²¹

- 7.13. Extensive detailed comments have been provided in relation to the public realm design and conditions have been recommended.
- 7.14. In conclusion, and in accordance with Design Officer advice above, the layout, nature and quality of the proposed public realm will help to capture the wider regenerative benefits of HS2 as envisaged in the Curzon Masterplan; acting as a catalyst for further investment both in the Digbeth/Eastside, Birmingham, and the wider West Midlands region. The design, especially when considered as a whole with the station, is considered to be of a world class standard and is supported subject to a number of conditions to safeguard the quality of the finer detail of the public realm.
- II) Preventing and/or reducing prejudicial effects on road safety or on the free flow of traffic in the local area
- 7.15. Whilst the station and surrounding public realm applications are separate submissions there is clearly a strong relationship between these submissions in determining how people will move around and through the station. In respect of material considerations, Schedule 17 is exclusively concerned with road safety and free flow of road traffic in the vicinity in addition to the adequacy and provision of pedestrian and cycle routes around the station.
- 7.16. In terms of highway changes from a pre-HS2 environment the scheme shows the removal and stopping up of the western end of Fazeley Street and the northern part of Park Street to accommodate the station building, the removal of New Canal Street as a through route, the removal of Banbury Street and termination of Andover Street, creation of a service entrance from Fazeley Street existing at the junction of Park Street and Bordesley Street and creation of a new station car park access off Curzon Street.
- 7.17. The Act provides authority for HS2 to undertake, and grants deemed consent for, a list of Scheduled Works and allows deviation for these named works within limits set out on accompanying plans. The Scheduled Works include an access into the site from Curzon Street and the (no longer proposed) realignment of Curzon Street to form a southbound only 'loop' around the Woodman Public House.
- 7.18. Schedule 4 includes powers to stop up parts of Andover Street, New Canal Street, Banbury Street, Fazeley Street and Park Street. Temporary stopping up powers are also granted by the Act. Schedule 4 highway consents are required for the detail of these works.
- 7.19. In highway terms there are a few key differences between the reference design in the Act and the current detailed design, namely:
- The removal of a new 'loop' of highway around the Woodman Public House
 - The provision of an 'in and out' single point of access to the station car park from Curzon Street
 - Coordination with the Midland Metro Alliance regarding the design of New Canal Street
- 7.20. In terms of the matters for consideration under Schedule 17 the key elements are the nature and arrangement of the vehicular access (including taxis and cycling) and the servicing of the station and their interaction with the provision for pedestrians.

- 7.21. The public realm design creates a largely pedestrian environment to the west and north of the main (roofed) part of the station building. New Canal Street would largely be pedestrianised with occasional delivery access to the Woodman at the northern end together with maintenance and service access for the public realm and station. Trams would also utilise New Canal Street as would cycles (in part).
- 7.22. Use of Curzon Street would be much reduced as it would no longer form a through route and would provide access to Millennium Point, the Woodman, the new station car park and the grade I station car park only. The road is proposed to be maintained at the same width with new pavers to the footpath on the station side. Two new crossings are shown either side of the Cardigan Street Junction.
- 7.23. Cycling routes through the site are shown through the public realm areas (Curzon promenade, Curzon Square and Eastside City Park) in addition to a route through the station car park connecting through to Andover Street and Digbeth beyond.
- 7.24. Turning to pedestrians, the proposals would introduce a range of choice when traversing the site east-west depending upon destination and mobility. Gradients have been amended to be as favourable as possible on this topographically difficult site. Key nodes such as station accesses, the tramstop and bus interchange are all served by convenient and direct routes. Step free movement is possible to all parts of the public realm, with little if any difference in distance with stepped access for the majority of routes into and around the area. The uplift in quality of public realm with additional lighting, CCTV and passive surveillance would provide a welcoming and safe pedestrian environment that is largely free of vehicular traffic.

Transportation Development

- 7.25. Have concerns regarding the operation of the station. Dealing with each point in turn:

Fazeley Street / Delivery / Servicing

- 7.26. Transportation Development raise concerns about how the intended access to the service yard would operate. The key concerns relate to how HS2 could undertake security checks prior to entering the station, and what happens whilst a vehicle is being checked on the public highway or entry is rejected. The current strategy sees vehicles parked in a loading bay on Fazeley Street whilst checks are undertaken, this reduces the possibility of rejected vehicles needing to reverse out onto the busy junction of Fazeley Street/New Canal Street.
- 7.27. HS2, in response, note that it will be some years before the servicing area is brought into use (and therefore the use and operation of the highway and surrounding sites may change). They therefore conclude that the best remedy to this concern is to place a condition on the station application which states that details of the safe vehicle management measures for the service area be provided. This would prevent the service area of the station becoming operational prior to acceptable details being agreed. This would ensure that a safe arrangement for use of the servicing area would be in place prior to its use, therefore overcoming any potential safety issues raised by Transportation Development.

Curzon Street and the Woodman Public House

- 7.28. Transportation Development have safety concerns around the distance of this turning area from the Woodman Public House and the principle of pedestrians and vehicles sharing the same space.

- 7.29. In terms of servicing the pub, HS2 have committed to amending the public realm design to allow servicing next to the building (rather than, unrealistically, expecting deliveries to be carted circa 70m from the turning area to the pub). A condition has been recommended on this application to secure the detail of this.
- 7.30. Considering the safety of the turning area when mixing vehicles and pedestrians, this would have very limited use. The historic Curzon Station would have limited requirements and benefits from its own car park area. The only other site to access this end of Curzon Street would be Millennium Point which has a service access that crosses part of the park then runs to the west of the science garden to a yard behind the building. The vehicle access arrangements for this service yard would remain largely unchanged (i.e. they would not need to use the turning area) except that it could now only be accessed via Curzon Street rather than New Canal Street.
- 7.31. Therefore, the turning area would solely be for vehicles who have accessed Curzon Street beyond the station and need to turn around. Whilst technically the area must provide sufficient space for larger vehicles (to avoid them getting trapped) this would not form a service area. The frequency of use of this should be low subject to securing adequate controls on the use of Curzon Street beyond the station (such as preventing access except for servicing access through an appropriate Traffic Regulation Order). This issue can be controlled via the Schedule 4 highway approval process and an informative telling HS2 that this is required is recommended.

Cycle and Pedestrian Connectivity

- 7.32. In respect of cycle connectivity adequate connections are provided both through the wider public realm and through the area of the station. Opportunities for connections through the station are very limited due to both levels and the future tramway. This remove the possibility of a level access via Bordesley Street/Station Square (a public lift is therefore provided) and via New Canal Street (due to the incompatibility of bikes and trams in this location considering the limited width of the existing railway bridge and pavements. This leaves only Andover Street/station car park as the only possible route for cyclists to take without needing to use the public lift. The urban realm shows a route through this area. Transportation note that there is only one available route that doesn't require dismounting and that this is shared with pedestrians. They consider that this route should be safe, legible and accessible.
- 7.33. There are multiple options as a pedestrian to move through the area giving pedestrians choice about how they move around the station. New Canal Street provides a similar connection but would likely provide a more appealing route for pedestrians passing through the area whose destination is not the station car park.
- 7.34. Therefore, the users of the shared cycle and footpath within the car park area are likely to be largely people who have used the car park, although other footpaths are provided within the car park area. In addition, the shared footpath is some m wide. This is sufficient to allow a cyclist to comfortably pass a pedestrian.
- 7.35. In terms of legibility, the majority of the route is coloured asphalt, a treatment that is used throughout the city and should be familiar to cyclists.

Curzon Street crossing / junction layout

- 7.36. Two new pedestrian crossings are shown across Curzon Street either side of Cardigan Street. These would enhance pedestrian connectivity noting that there are no existing designated crossing points on this part of Curzon Street as existing. Transportation Development note that different kerbs are proposed and question how capacity and safety will be maintained. Given the scope of schedule 17 the full

details of the pedestrian crossings and road markings etc are not for approval, this would be via the Schedule 4 highway consent process.

Highway Impact – Free Flow

- 7.37. The Environmental Statement (ES) supporting the Act contains a detailed Transport Assessment (dated 2013) of the impact of the route. The Assessment shows that Curzon Circle is forecast to operate beyond its capacity from 2021 (regardless of HS2). Works to this junction and the Middleway in general (including Garrison Circus) were therefore proposed as part of the mitigation works. Whilst not part of this application Members should note that active discussions between HS2, TfWM and the city continue to take place around the best form of these works given the changes to the local highway environment since this report including the changes to Moor Street Queensway (introduction of a bus gate) and the imminent introduction of the Clean Air Zone. In addition, more is now known about the timing and nature of the proposed tramway extension through the area.
- 7.38. Construction traffic impacts were also considered as part of this Transport Assessment.
- 7.39. The conclusion of the TA is that in terms of trip generation the proposed scheme will result in a reduction of vehicular trips compared to the future baseline given that this would have included the major development proposals previously consented at the site. In respect of strategic impacts, the potential works described above to Garrison and Curzon Circus were a result of the impacts of the road diversions and closures necessary to deliver the station.
- 7.40. In terms of local road network impacts, some mitigation could have been necessary to traffic signal timings on Moor Street and the signalisation of the Curzon Street Cardigan Street junction. However, any changes to Moor Street will be developed as part of that project given that there is no vehicular access to the station from this western end. In addition, the impacts at Cardigan Street/Curzon Street would be further developed in conjunction with HS2 as part of the developing strategy for works to Lawley Middleway.

Car Parking

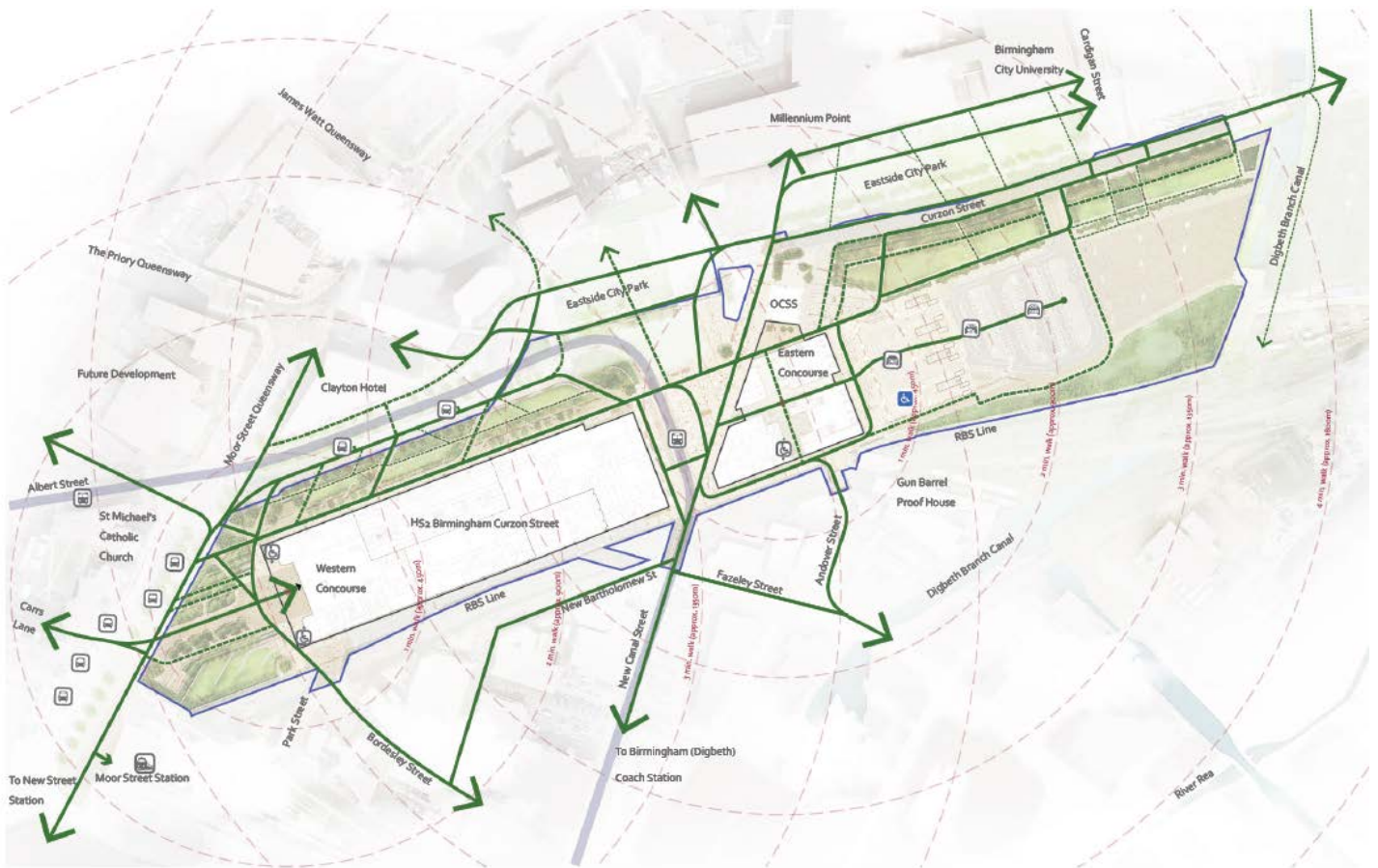
- 7.41. The ES TA (2013) notes that the station would increase car parking demand in the local area for short stay ('kiss and ride') and longer stay parking. It notes that the reference design includes 60 drop off/pick up spaces accessed off Curzon Street with further space for staff parking provided. No long-term parking was proposed as part of the reference design. The TA concludes that in year 2041 a maximum of 38 spaces would be occupied in the AM peak and 51 spaces would be occupied in the PM peak.
- 7.42. In respect of long stay parking, by year 2041 the TA concludes that the station is likely to generate an additional demand of around 112 passengers in the AM peak and 82 passengers in the PM peak by private car using local long stay parking facilities. It also acknowledges that the city is not keen to promote commuter parking within the city centre.
- 7.43. Turning to taxi provision, the TA considers that by 2041 once the station is running at a capacity of six trains an hour, a total of 13 drop offs per train for the AM peak and 24 per train for the PM peak. In addition, pick-ups for year 2041 would be 24 taxis per train for AM peak and 15 taxis per train in the PM peak. It concludes that based on the average maximum demand per train during peak hours, and assuming the staggered arrival of taxis, particularly in relation to drop-off of passenger, the capacity provided for the proposed scheme was considered suitable for the forecast

demand. The reference design included two taxi areas, one at Curzon Street, the other at Park Street. The design allowed for 11 taxi drop offs on Curzon Street and space for 40 queuing taxis between New Canal Street and Bordesley Street.

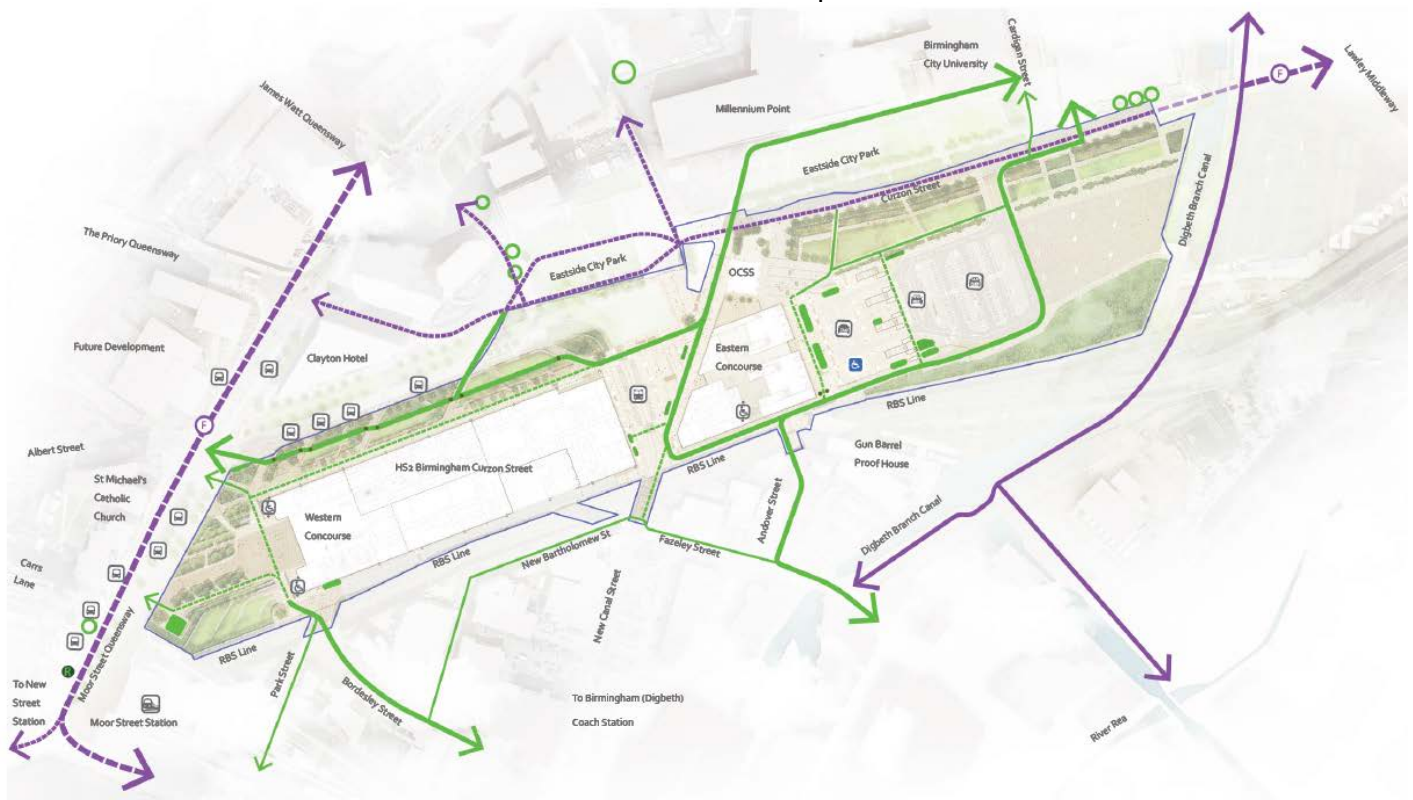
- 7.44. In comparison the proposed S17 design provides consolidated taxi provision at the eastern end of the station, with some 47 taxi spaces provided within the car park area accessed directly from Curzon Street.

Conclusions on Highway Impacts

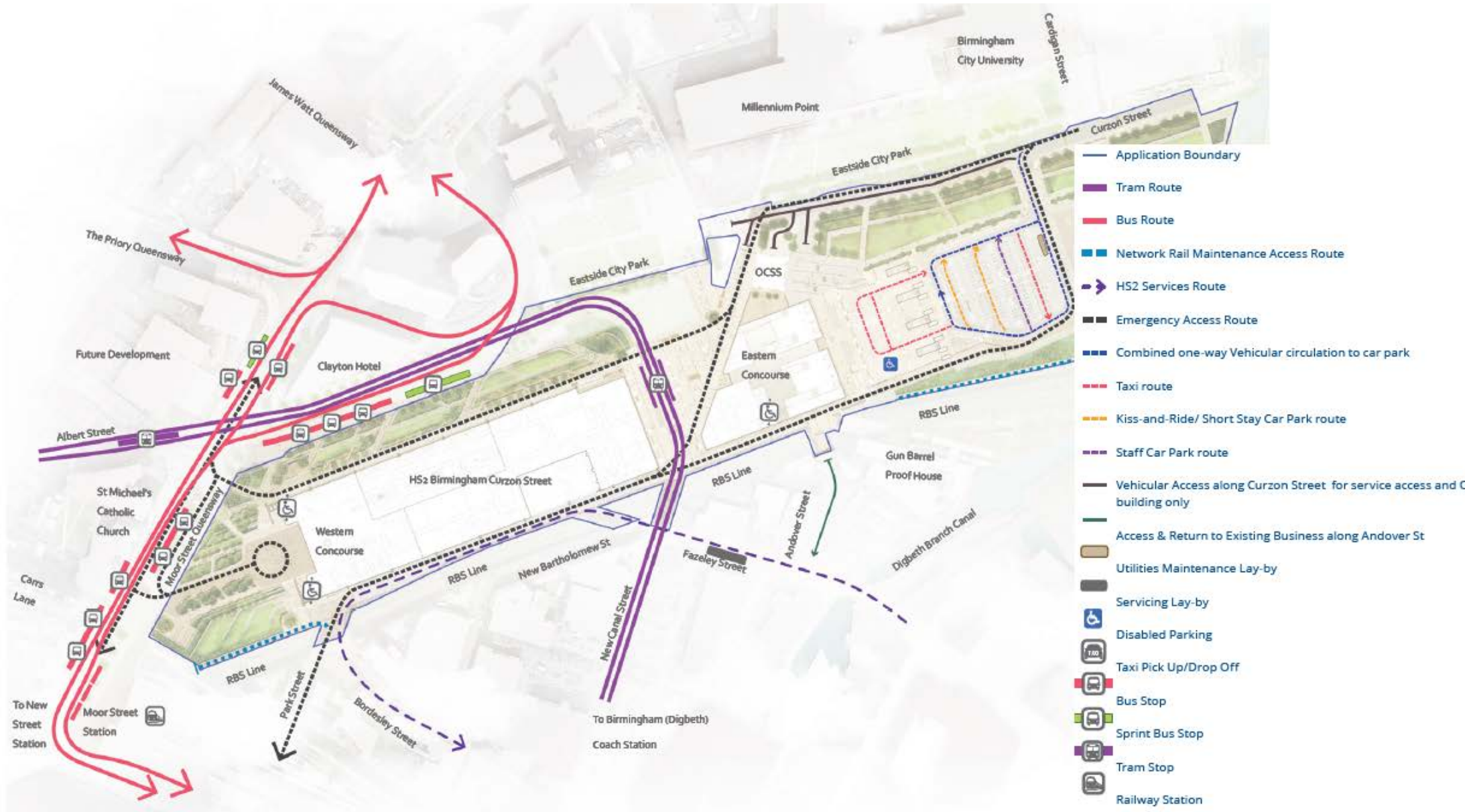
- 7.45. The proposed station urban realm design is in accordance with the Act and demonstrates a progression from the reference design. Concerns have been raised by Transportation Development however these can be overcome by condition or other controls through the Act, which will be referenced by an informative attached to the consent.
- 7.46. Therefore, consent should not be withheld on highway safety / free flow grounds subject to the recommended conditions and further controls available through the Act, including Schedule 4 and the Bringing into Use process.



Pedestrian movement around the public realm



Cyclist movements around the public realm



Vehicular Movements

III) Archaeological and historic interest

- 7.47. As set out above, Historic England generally welcome the application but raise a number of concerns. Dealing with each in turn:

Animation of the North-western Facade

- 7.48. Animation of the north-western façade is considered in detail on the accompanying application for the station building. However, the public realm ensures that pedestrian access right up to the building is maintained so that where animation is possible this is experienced at a human scale. Longer views from the wider public realm will benefit, in particular, from the animation provided by the movement of trains into the station.

Screen Wall

- 7.49. The heritage implication of the screen wall adjacent to the grade I listed building is considered in detail on the accompanying application. However, the wall provides a boundary to the former line of New Canal Street and provides an outdoor space that connects the eastern concourse to the car park and wider urban realm. This public realm application includes high quality natural stone paving in this area which is consistent with the setting of a grade I listed building.

Marking of Platforms in the Landscape

- 7.50. The area to the rear of the former station is proposed to be an area of hard paving in high a high-quality natural stone with benches provided. This will provide uninterrupted views of the rear of the listed building, with the paving format marking the locations of the former platforms. These terminate prior to the car parking area which is at a different level with steps and a ramp providing connectively between the two which provides a natural termination point for these platform features. It should be noted that the longest of these features is almost 45m long.

Future Development and the Grand Junction Wall

- 7.51. As Historic England acknowledge, the merits of any future development around the station and viaducts is not for consideration at this time and would be determined on their merits. This application includes either the loss or reuse of some of the fragments of the Grand Junction Railway at the eastern end of the site. The remains of the wall are fragmentary, altered and truncated at varying heights.
- 7.52. The City Design Manager notes that the loss of this screen wall is regrettable and considers it of significant historic interest. He notes that future development may be many years away and that the consideration of its future within the application are limited.
- 7.53. In response, as set out above, no weight should be given to the proposed potential future development around the station. Based upon the merits of the current application, the disbenefits of retaining this wall outweigh the heritage benefits of retention, even in the short term. The proposals include a landscaped area around the wall which would offer significant public benefit. Retention of the wall would create an unsafe and unpleasant environment providing opportunities for anti-social behaviour. In addition, whilst the significance of the remaining fabric is high, it has been much diminished through the fact that it is truncated, fragmentary and much altered. Therefore, harm to this heritage asset is fully justified by the public benefits of the proposal, including the provision of safe and accessible public realm around

the station. A condition has however been recommended that requires further information in relation to the strategy for marking the presence of the wall in the landscape and/or reusing some of the remaining stonework as part of the landscape design.



The former screen wall to the Grand Junction Railway



Typical fragment of the existing wall

Archaeology

- 7.54. As set out in the HS2 Heritage Memorandum, a route-wise written scheme of investigation: Historic Environment Research and Delivery Strategy (known as the GWSI: HERDS). The HERDS sets out the approach to archaeological investigation including the detail of how the works are undertaken, stakeholder engagement, and the archaeological potential along the route on a period-by-period basis.
- 7.55. More generally, the Heritage Memorandum sets out the approach to considering heritage in the design and implementation of the works, and states that the sympathetic design of new structures and alterations and the careful integration of heritage assets into construction works will be of particular importance. It adds that the desirability of reducing harm to the setting of nearby heritage assets will be a key consideration of the design process.
- 7.56. Works may include the protection and preservation of assets in situ, investigation and recording in advance of enabling and construction works, and/or the implementation of investigation and recording during enabling and construction works.
- 7.57. The supporting Written Statement notes that the management of archaeology during construction is not a matter for approval under Schedule 17.
- 7.58. Notwithstanding this, there have been extensive investigations at the Curzon site. This has included the exhumation of remains at the former Park Street and Freeman Street burial grounds together with extensive excavations of the former railway platforms, sidings etc to the rear of the original Curzon Street Station. The need for and scope of any further archaeological investigation is presently under consideration.
- 7.59. As part of the accompanying applications archaeological features such as the engine turn facility and the *remnants of the boundary wall along Curzon Street are to be represented in the proposed landscape design.*
- 7.60. In respect of archaeology, the city's Conservation Officer notes that once the ongoing excavations are complete further refinement of the design of the ecological mitigation zone is required to prevent tree roots from damaging the surviving roundhouse fabric.

Other Heritage Assets

Eagle and Tun

- 7.61. The impact upon the Eagle and Tun is considered in the accompanying application.

Fox and Grapes Public House

- 7.62. It should be noted that the Act consented the total demolition of the extensively fire damaged Fox and Grapes public House (Grade II) subject to a Heritage Agreement between HS2, Historic England and the city. The agreement was completed in November 2017, the building was demolished in September 2018 and subsequently de-listed

Setting of Assets

- 7.63. The proposal will impact upon the setting of the original Hardwick listed Curzon Street Station (Grade I), the Woodman Public House (Grade II) and Moor Street Station (Grade II). In addition, there would be numerous other listed and locally

listed structures within the vicinity that would have their setting altered as a consequence of the proposals.

- 7.64. The proposed public realm sits within Limits of Deviation that sets the maximum extent of these earthworks/proposals – this is defined by the Act.
- 7.65. Given its Grade I designation combined with its proximity to the public realm, the historic Curzon Street Station will have its setting most fundamentally changed. The building sits almost in isolation and is a dominant feature in the townscape. Current ground conditions in the immediate environment include New Canal Street, which places an engineered highway in close proximity to its principal elevation. To the rear is the large cleared site currently undergoing archaeological works but previously occupied by a large distribution warehouse and surrounding service yard. Therefore, the setting of this building has fundamentally changed since its construction, with a combination of railway yards and industrial buildings providing a very poor setting in the past. Efforts to maximise the benefits of the proposed public realm have been secured through the detailed design process, including the use of high quality natural materials and the more civic design to the spaces around the building. This greatly improves the setting of this important heritage asset.
- 7.66. The City Design Manager recognises that the setting of the station has probably been poor for a very long time surrounded by industrial buildings and railway yards. Furthermore, he does not see what else HS2 could do to mitigate the setting impact here due to the nature of the development. Arguably the improvements to the environment of the area and the re-use of the building will be an enhancement.



The previous setting of Curzon Station

- 7.67. In relation to the Woodman Public House, the overall environmental enhancements offered by the surrounding public realm will offer an overall positive benefit to the setting of this public house.
- 7.68. Considering the setting of St. Michael's Catholic Church, this building sits within an emerging urban context, with the recent consent for Martineau Galleries further changing its immediate environs. The setting back of the station from Moor Street

would offer some benefit to this building compared with the reference design as would the high-quality public realm proposed for Station Square.

- 7.69. In respect of the former Christopher Wray building, the station is some distance from this, and its immediate setting consists of large buildings. The proposed public realm will offer some marginal benefit to the setting of this building.
- 7.70. In terms of Moor Street, again the creation of Station Square will help improve this setting, with the site previously been occupied by (partly unsurfaced) open car parking facilities with a large advertisement hoarding in close proximity.
- 7.71. In respect of the impacts on the listed buildings and Conservation Areas to the south, the station is considered in the accompanying application; however, the public realm offers a very slight improvement in setting.
- 7.72. Finally, in relation to the railway viaduct to the east, this is some distance from the proposed public realm and there would be little if any impact. In terms of the listed canal bridge the proposed shows a semi temporary surface of resin bound gravel with some soft landscaping in this area which offers a neutral overall impact from the existing condition.
- 7.73. In conclusion on heritage matters, the proposed design fully mitigates the potential impacts (in the context of the Act) and no further changes are recommended in this regard.

Nature Conservation Value

- 7.74. The City's Ecologist considers that the landscaping would offer a biodiversity net gain. The biodiversity enhancements such as bird, bat, insect boxes, log piles and rocky habitat are acceptable in respect of their type and number. Adds that the tree pit details look acceptable and appropriate.
 - 7.75. Natural England raises no objection and confirms that no ecologically significant sites would be impacted by the station proposals.
 - 7.76. The city's Arboriculturalist notes the wider proposals as shown on the accompanying applications which he considers very good with the detail of the tree pits well planned to support the suggested tree species. He notes that the total landscaping proposed measures approximately 24,240 sq.m. The approximate canopy coverage of Park Street Gardens was 6610 sq.m, and the proposed canopy coverage (once established and maturing) is estimated at 8439 sq.m (a 35% coverage within the given area.) This is a welcome increase in coverage in the long term where there can be high confidence of establishment and maintenance.
 - 7.77. The station proposals would result in the loss of an area with limited nature conservation value. The proposals in their totality, including the surrounding public realm, offer a significant uplift in the nature conservation value of the site with significant planting and other specific mitigation measures proposed to maximise the ecological benefits of the proposals.
- B) The development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits
- 7.78. The limits of HS2 works are defined within the Act. The current scheme is fully compliant with these limits and delivers urban realm largely to its maximum extent.

- 7.79. Therefore, in respect of the limits of deviation set out in the Act, the urban realm is in the best location and takes every opportunity to secure the best design, connectivity and heritage impact outcomes possible.

Artificial Lighting

- 7.80. The lighting of the public realm to create a safe welcoming environment as set out on the supporting plans and documents is supported. The detail of which would be the subject of a condition relating to all of the elements of street furniture, to include lighting.

Earthwork Elements

- 7.81. For this application the earthworks largely consist of the re-profiling of the ground levels to facilitate the creation of a functional railway station that successfully interfaces with the spaces around it. There are no archaeological or highway impacts over those considered above in relation to 'structures'.
- 7.82. The proposed levels and gradients created across the public realm work have been the subject of detailed discussion and the scheme set out in this application provides the best and most inclusive arrangement possible given the constraints which include the surrounding topography and technical matters such as drainage. Level access is possible throughout the whole area with areas of steps minimised. Where there was no opportunity to remove them at the critical western end of the station building public lifts have been provided.
- 7.83. The topography and detailed design work together to create visual interest and successful high-quality spaces that will be of significant public benefit providing substantial public spaces with varying characters around the station.
- 7.84. Therefore, no objection is raised to the design of the proposed earthworks.

Fences and Walls

- 7.85. The walls proposed as part of the public realm works are in the appropriate locations (largely containing landscaped areas – including the EMZ). Therefore no objections are raised to the location of the proposed walls within the design.

Road Vehicle Park

- 7.86. As set out above, the detail of the car parking area is acceptable and would provide an adequate level of amenity.
- 7.87. There are no further archaeological implications in addition to those set out above under 'structures'.
- 7.88. Finally, the location of the car park is satisfactory and has a good relationship with both the building and the wider highway network.

Other Matters

Indicative Mitigation

- 7.89. As set out in the Planning Memorandum, the proposals include the proposed mitigation measures in respect of the station works. These measures are not for detailed consideration at this stage as a further submission would need to be made

once implemented ('bringing into use'). However, this is an opportunity for early sight of and comment on the measures proposed.

- 7.90. The specific mitigation measure proposed as part of these works is principally the Environmental Mitigation Zone (EMZ). This is a linear shaped space between the existing RBS railway line and the HS2 railway. It is proposed to plant the area with native broad-leaf woodland whip and transplants in a wildflower grassland retaining maintenance access.
- 7.91. Further details regarding the overall mitigation include the specification of the wider hard and soft landscaping across the wider station development; a sustainable drainage scheme including urban rain gardens and conveyance swales; and a commitment to biodiversity in the wider scheme to include the landscape planting strategy, log piles within the EMZ, insect boxes (minimum of 30 insect houses), bird boxes (a minimum of 50 across the wider site), wildflower planting and amenity lawns to Curzon Street and Curzon promenade.

Sustainability

- 7.92. In addition to the measures set out above, the Design and Access Statement states that the station is on target to achieve a net zero carbon building through the deployment of low and zero carbon technologies, reducing carbon emission from the 'regulated load' by 103%. These technologies include air source heat pumps. LED lighting and photovoltaic panels.
- 7.93. Passive provision for connection to the District Heating network will be made. Connection to this network from day one was thoroughly explored however due to the position of the network not being adjacent to the station and that the decarbonisation of the energy sources of the network has yet to take place this was not possible.
- 7.94. In addition, passive provision that includes ductwork and a capable energy supply for electric vehicle charging points for 50% of the car park would be provided to provide a flexible yet future ready approach.

Local Employment

- 7.95. As set out above, these matters are not relevant to the determination of the Schedule 17 applications. However, HS2 do have an undertaking and assurance with the city in relation to Skills, Education and Employment outputs and are working towards maximising the local employment and skills benefits presented by the project.



Western Concourse looking to Station Square with City Core beyond

8. Conclusion

- 8.1. In conclusion, the design of the station's public realm, through a significant period of productive discussions, has evolved significantly to provide a high quality urban environment. The urban realm is inclusive and maintains and improves access for all across a large area around the station building. The urban realm will be of much wider benefit than just users of the station, providing key connections to the knowledge quarter and Digbeth.
- 8.2. In respect of highway, nature conservation and heritage impacts these are either fully mitigated through the design, controlled through other parts of the Act or are acceptable when the planning balance is applied.
- 8.3. Approval is therefore recommended.

9. Recommendation

- 9.1. That the application for Schedule 17 is APPROVED subject to the conditions listed below:

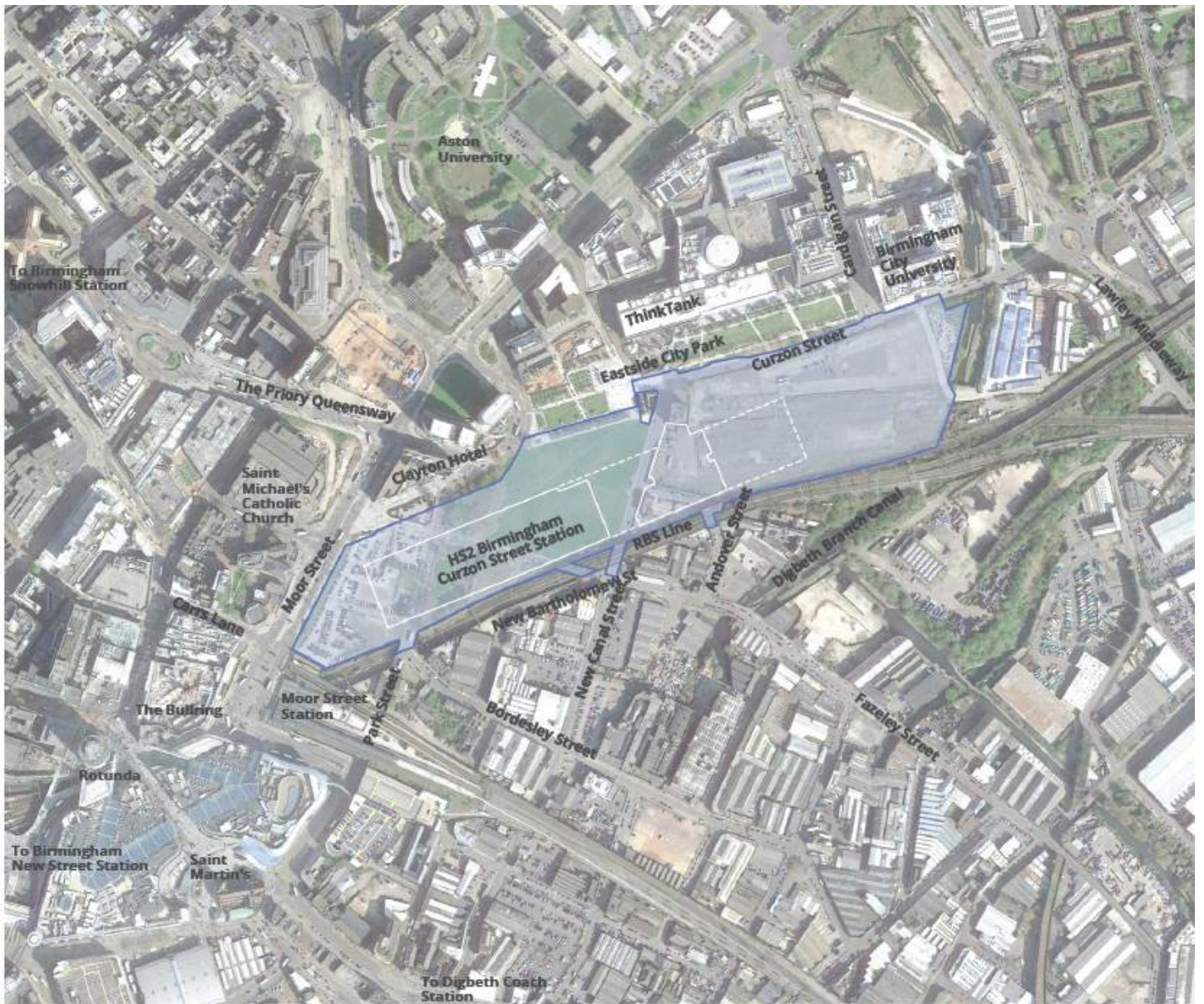
1	Dictates the orientation of bird boxes
2	Requires further details of landscaping
3	Requires submission of paver details
4	Requires approval of the details of street furniture
5	Requires particulars for subsequent agreement of the loading area for the Woodman Public House
6	Requires particulars for subsequent agreement for the Grand Junction Railway Station wall
7	Requires the scheme to be in accordance with the listed approved plans

Case Officer: Nicholas Jackson

Photo(s)

Google Earth Aerial Views of the site and environs showing the tent used as part of the exhumations

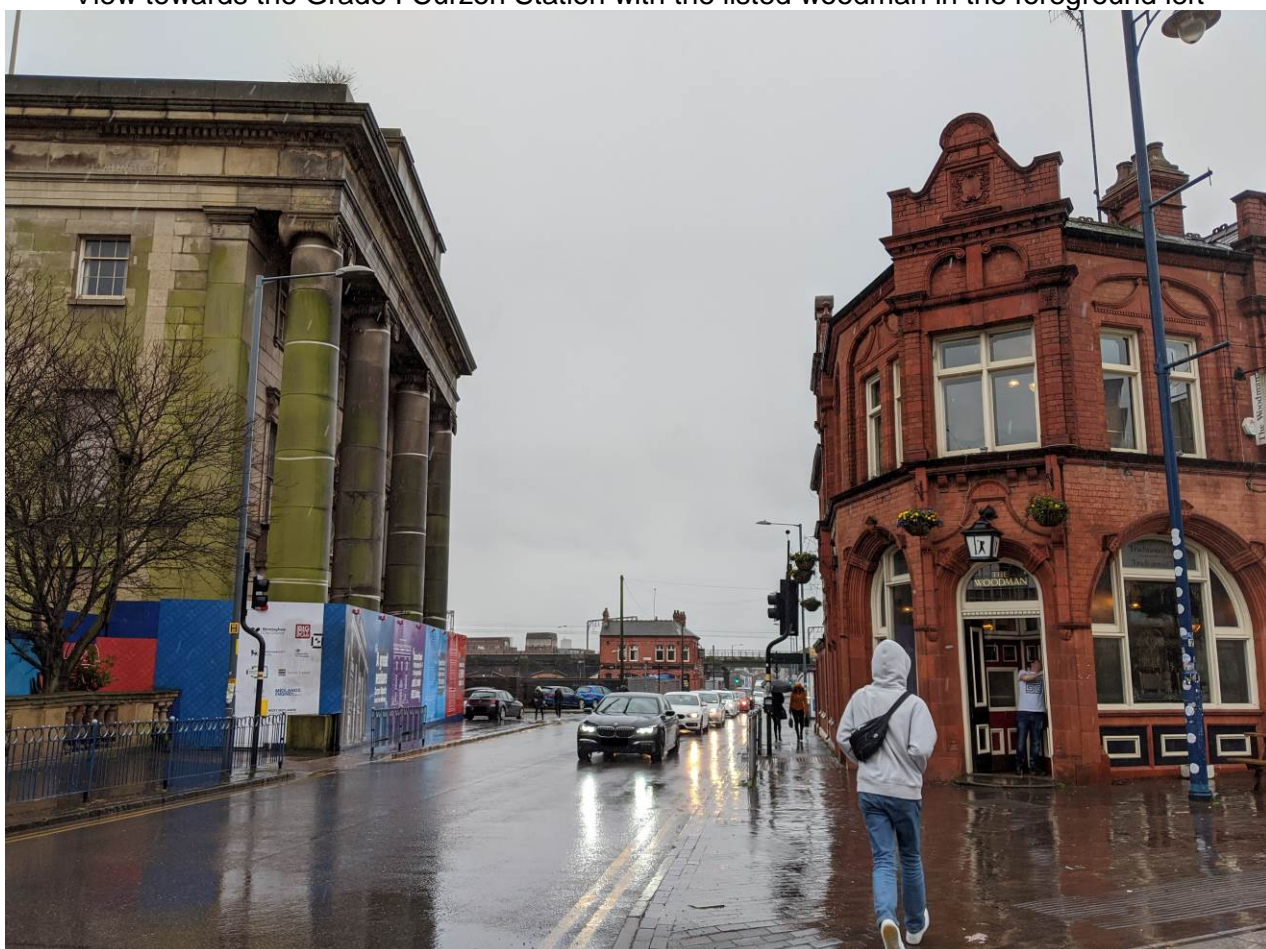




Panoramic View of the western part of the site from Eastside City Park



View towards the Grade I Curzon Station with the listed woodman in the foreground left



View approximately south along New Canal Street

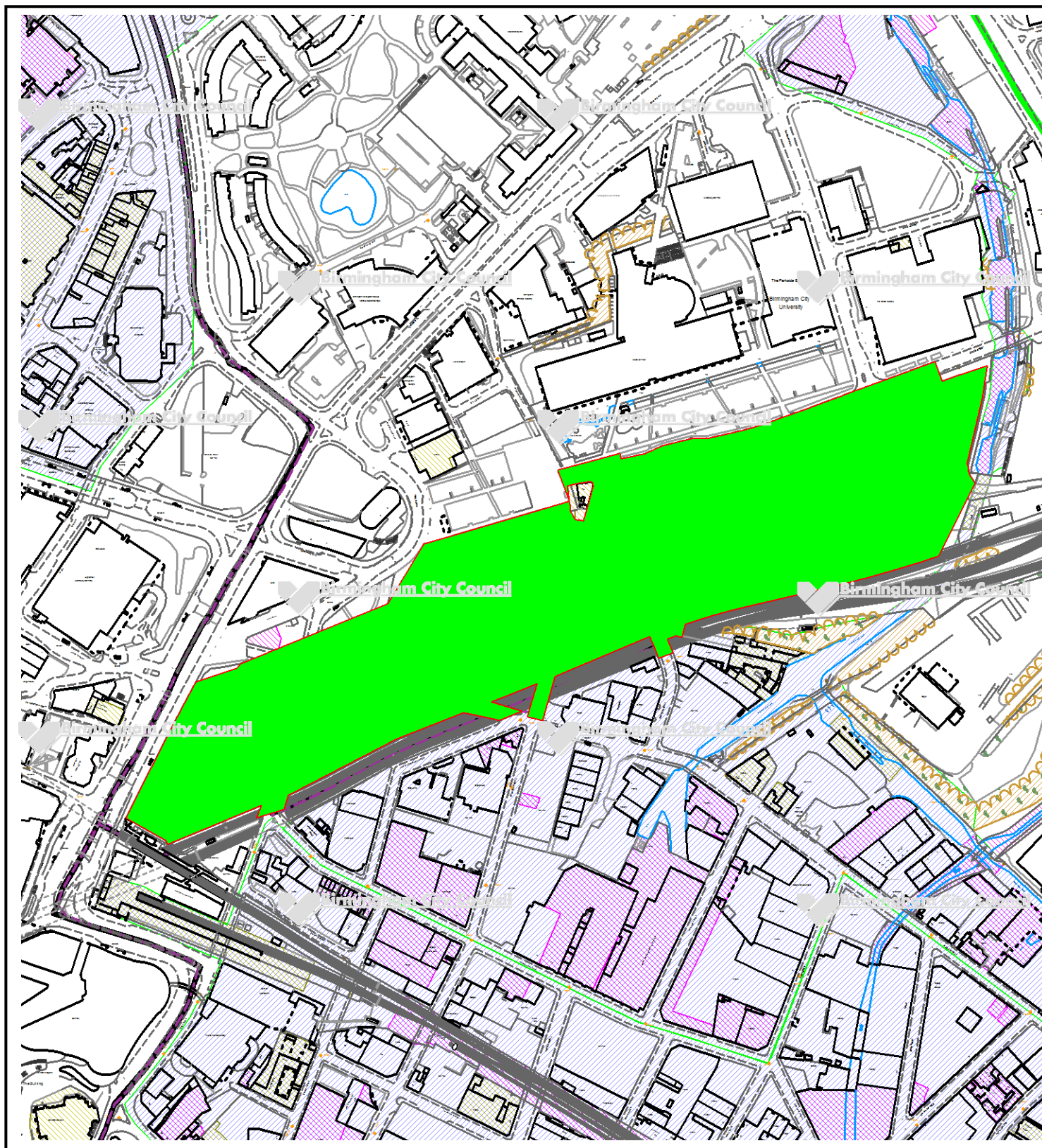


View of Millennium Point and Eastside City Park



View of the on-site archaeological investigations

Location Plan



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Committee Date:	23/04/2020	Application Number:	2020/00602/PA
Accepted:	24/01/2020	Application Type:	High Speed Rail (London to West Midlands) Act 2017
Target Date:	01/05/2020		
Ward:	Nechells		

Land bounded by Curzon Street, Eastside Park & Moor Street
Queensway, Birmingham, B4

Application under Schedule 17 of the High-Speed Rail (London to West Midlands) Act 2017 for a new station comprising concourses, roof, viaduct, platforms, earthworks, permanent lighting and all other associated works

Recommendation

Approve subject to Conditions

1. Background

- 1.1. This application, for the northern terminus station of Phase 1 of the new High Speed 2 railway connecting Birmingham to London Euston via Birmingham Interchange and Old Oak Common (west London). This application is made via Schedule 17 (S17) of the High-Speed Rail (London – West Midlands) Act 2017 ('the Act') rather than the usual planning regime.
- 1.2. The later phases will ultimately connect Birmingham to London, Manchester and Leeds. This is a major project of national importance that will be progressed over several years, by two further Hybrid Bills through Parliament. Within the city HS2 Phase One will include a new rail line from Water Orton through Castle Vale, Bromford, and Saltley to this new City Centre station at Curzon Street. Phase 2A, between the West Midlands and Crewe, is currently being progressed through a further Hybrid Bill in Parliament with Royal Assent anticipated shortly once the new parliament have concluded that the bill should resume. A third Hybrid Bill for Phase 2B between Crewe and Manchester and the West Midlands and Leeds is in its development stage and will be deposited in Parliament this year.
- 1.3. The Act grants deemed planning consent for a station subject to further approvals being sought for certain matters as set out in S17. The Department for Transport issued [guidance](#) to LPAs relating to S17 in February 2017. For this submission the erection of a building, earthworks and artificial lighting, require consent under the Act. The grounds for consideration are set out later in this report. This detailed design follows extensive pre-application discussions with HS2 including at the Independent Design Panel, whose conclusions are included within the submission. This design is at a relatively detailed stage and supersedes the reference design that supported the Act's progress through the parliamentary process.
- 1.4. The supporting statements show potential future commercial developments around the station. These are not for consideration as part of this application and would sit outside of the Act (subject to the regular planning consent regime). Therefore, no weight should be given to these in the determination of this application.

1.5. [Link to Documents](#)



Station Square and Western Concourse

2. Proposal

- 2.1. This application concerns the station building only. Two separate accompanying Schedule 17 applications provide the detail of the surrounding public realm and a further Town and Country Planning application for public realm, known as Paternoster Place, will follow.
- 2.2. The station building is roughly orientated north-east to south west and manages a significant change in levels across the site. The station is the first major S17 application to be submitted and therefore there are no consents in place for the detail of the viaduct structure coming into the Eastside area as set out in the supporting documents. However, detailed discussions have been taking place with the main works contractor to coordinate these two pieces of infrastructure, and applications will be coming forward in due course.
- 2.3. As a result of the management of the level changes across the site the railway comes into the station on viaduct at between 5-6.5M high at New Canal Street (with the top of the viaduct structure being between 14 and 15m high at New Canal Street). At its easternmost end there are a series of fire escapes which are located at the end of the platforms providing emergency egress from the platforms to ground level below. The station building continues with a viaduct structure supporting the tracks and platforms above. At this point external canopies are provided at platform level. A public entrance to the station is provided at the lowest ground level the 'Eastern Concourse' with a cruciform access arrangement providing access from all directions. The tracks and platforms continue above New Canal Street on viaduct until it has cleared the location of the proposed tram stop. This is where the full height station building commences with retail and office facilities at street level and tracks and platforms contained within a large roof structure above. As the levels rise to the west the station gradually buries itself in the hill with the platform level first being consistent with the surrounding ground level before ultimately being below ground level. At this point the Western concourse level, providing the city-facing access to the station, is situated above the platform level.
- 2.4. Therefore, in summary at each level from east to west:

Eastern Concourse/Basement 109m Above Ordinance Datum (AOD)
- 2.5. Taxi parking and car drop off area – Eastern Concourse (including some retail provision) with access to platforms above – New Canal Street – retail and office space – back of house including servicing and plant for the station above.

Platform level 118m AOD
- 2.6. Track and platforms firstly on viaduct then at ground level then below ground – train buffer area – there would be a total of 7 no. platforms which provide sufficient capacity for this and future phases of the High Speed 2 network.

Upper level 124m AOD
- 2.7. Commences to the west of New Canal Street – provides pedestrian circulation space and ad hoc commercial space – at the western end an indicative ticket line and more formal retail space at the Western Concourse.
- 2.8. The ridges of cowls on the main roof is at approximately 143.8m AOD.

Access

- 2.9. In respect of public access to the station and platforms there are two entrances. The Western Concourse is the city-facing access where generous shop fronts announce the entrance to the station together with a 35m overhanging main roof. This provides direct level access into the station building from Station Square as described in the accompanying application for public realm. Escalators and lifts would provide access to platform level below.
- 2.10. Public access to the station from the eastern end would be via a separate concourse accessed from New Canal Street/the car park area. This concourse is below track level and therefore escalators and lifts would provide access to the platforms above.
- 2.11. The station building would be fully accessible. Public lifts are situated to either side of the western concourse connecting the concourse level with Curzon Promenade and Bordesley Street respectively and level access is provided at each concourse. Level access is also provided into the eastern concourse from the proposed tram stop beneath the viaduct which also provides a convenient level access from the vehicle drop off point where there is dedicated persons with reduced mobility (PRM) buggy parking.
- 2.12. Internally there would be Customer Experience Hubs close to each entrance these would be close to customer welfare facilities including seating, sanitary facilities, retail and PRM equipment.
- 2.13. In terms of cycle access, the circulation around the station is considered in the accompanying reports. In terms of the station building itself cycle parking would be provided underneath the viaduct at New Canal Street and within the car park / drop off area.
- 2.14. There is no long-term public car parking at the station but an extensive taxi drop off area is proposed directly to the east of the eastern concourse together with short stay, kiss and ride and staff parking facilities as follows:
- Kiss and Ride: 5 bays
 - Short stay: 45 spaces with a 5% disabled provision
 - Taxi drop off: 5 bays
 - Taxi pick up: 3 bays for simultaneous waiting plus capacity for 39 waiting
 - Staff Parking: 26 spaces including 5% disabled provision

Architecture

- 2.15. The principal station building consists of an arched roof supported by large buttresses for the western part. The roof would be clad in metal panels with a significant projection both at the east and western ends of around 35m. This leading-edge detail is proposed in an ultra-high performance concrete allowing for an attractive form and slender proportions. Along the ridge of the arch are a series of smaller cowls in the same material that house emergency extraction equipment.



- 2.16. The roof is the architectural signature of the station and great care has been taken around its detailing to ensure that the technical requirements are met and that its elegance and simplicity is maintained. The soffit is proposed to be louvered timber cassettes in a triangular formation. The roof is also punctuated by huge roof lights maximising natural daylight into the station as far as possible. The station has been designed so that the full expanse of the roof can be appreciated from all parts of the upper level. In addition, as the concourse is situated above the tracks, voids allow the roof to be experienced from platform level too.
- 2.17. Facing the city centre the western façade is a gigantic sheer wall of glass of up to 17m in height and 69m wide. This maximises natural light and views into and out of the station building.
- 2.18. Extensive areas of glazing are provided along the northwest facing upper levels including at platform level allowing views in and out of the station from the new public realm (Curzon Promenade). Two small retail units at the western end of this façade help provide some animation to this route. Once the platform level is above ground level there is an area for plant and emergency access where limited animation is possible. This forms part of the solid 'outcrop' emerging from the hill and continuing as a band at viaduct level. Further activity is provided at the eastern end of the main station building with office and retail frontages.
- 2.19. The New Canal Street elevation is animated via retail and office use as far as possible although as the street level falls towards Digbeth by approximately 1.5m across the viaduct's width.
- 2.20. The southern elevation of the principal building fronts a private servicing route between the new station and the RBS railway line. The lower level is back of house and servicing and is not readily visible from the wider area. The façade on the upper level on this part of the station consists of solar panels between buttresses on the same grid as the northern elevation with a strip to allow views out of the building.



- 2.21. The viaduct over New Canal Street continues the glazed approach above the solid structure of columns and horizontal beams supporting the track above. Vertical structural mullions (aluminium champagne colour) between the panels of glazing help animate and give depth to this facade. Columns would be clad in light coloured mosaic tiling. The soffit of the viaduct structure above the street would include modelling that would continue into the eastern concourse roof and would be used to house lighting onto New Canal Street which would be supplemented by the natural light that would come through glazed voids in the structure.
- 2.22. The eastern concourse has a gridded façade detail at street level (sand coloured pre-cast concrete panels that have been sand-blasted) that wrap around on all sides. This breaks out into a winter garden type space immediately adjacent to the original Curzon Station.

Supporting Information

- 2.23. This application is supported by a comprehensive suite of plans that are submitted for approval. The other supporting information, which comprises of the Design and Access Statement, a Written Statement, Submission Letter, Indicative Mitigation Letter, and location and application boundaries plans are provided as supplementary information and not for approval.

Indicative Mitigation

- 2.24. As set out in the Planning Memorandum and Planning Forum Note 10, this application includes indicative mitigation. Indicative mitigation may relate to ecological, landscape, community and/or operational noise from the railway or roads impacts.

Mitigation is provided for comment only at this stage and is not for formal consideration at this stage. A further application (bringing into use) would consider the adequacy of the mitigation proposed, however the indicative mitigation shown in this application is an early chance to comment on the proposals (focusing on the scope, any additional mitigation that could reasonably be required, and comments on the design of the proposed mitigation). Any comments made in relation to the mitigation are without prejudice and there is no obligation to provide comments.

2.25. The supporting consultation letter provided within this application states that the proposed mitigation for the station and viaduct consists of:

- Extensive landscaping strategy which spans the length of the site that features both native and non-native species as set out in the supporting Design and Access Statement (at 5.3) and plans on the accompanying applications
- An Environmental Mitigation Zone situated between the existing RBS line and the HS2 railway. This will comprise of native broad-leaf woodland whip and transplants in a wildflower grassland
- Sustainable drainage as set out in the Design and Access Statement (7.3)
- Biodiversity enhancements as set out in the Design and Access Statement (7.4)



Station Concept Design February 2017



Curzon Square, New Canal Street viaduct to the left and Curzon Promenade to the right

3. Site & Surroundings

- 3.1. In the wider city context, the station's location is within the Eastside locality between the education quarter (BCU and Aston University campuses) to the north and the creative quarter of Digbeth to the south.
- 3.2. The boundaries and envelope for the station are within the Limits of Deviation defined in the HS2 Act and the designs set out in this application fully accords with these vertical and horizontal limits. These limits of deviation (LOD) are illustrated on a number of the application drawings.
- 3.3. The application boundary of the station is broadly rectangular in shape and measures approximately 560m in length and a maximum of 95m wide. The total site area is 55,250 sq.m or 5.5 hectares. West of New Canal Street the site rises significantly in level to Moor Street with a 15m difference in level between the former Curzon Street Station and Moor Street. Beyond New Canal Street to the east the site is relatively level.
- 3.4. The new station would sit to the east of Moor Street, south of the Clayton Hotel and Eastside Park, bridging over New Canal Street immediately to the south of the Grade I listed Curzon Station terminating within the large cleared area of land to the south of Curzon Street. The Rugby-Birmingham-Stafford (RBS) line runs to the south of the new station, partly on viaduct and partly in cutting. The site incorporates part of Fazeley Street which will be stopped up to make way for the station. The Digbeth Branch Canal forms the eastern boundary.
- 3.5. Much of the western part of the site previously formed burial grounds. An extensive programme of exhumations and recording work has been undertaken. In addition, the archaeological investigations have explored the remains of the Curzon Street Station yard, the Freeman Street Baptist Meeting House and burial ground and the Grand Junction Railway Station.
- 3.6. In order to facilitate these works much of the site that is not part of Eastside Park, the Woodman and Eagle and Tun Pubs or public highway is currently cleared and bounded by hoardings. A separate project to secure the refurbishment and re-use of the city owned Grade I listed former Curzon Station building in the short to medium term in conjunction with HS2 is currently underway. Café and exhibition space are proposed at ground floor level with offices above.
- 3.7. Heritage assets in and around the site include the Church of St. Michael (Grade II); Woodman Pub (Grade II); Old Curzon Station (Grade I); Gun Barrel Proof House (Grade II*); Old Moor Street Station (Grade II); former Christopher Wray (Grade II); and Railway Bridge over Digbeth Branch Canal (Grade II). The Fox and Grapes public house has been demolished in 2018 and has since been de-listed. In addition, a locally listed (Grade B) former public urinal on Banbury Street appears to no longer be in situ. The Eagle and Tun public house (locally listed grade B) would be demolished as part of the proposals. The Digbeth, Deritend and Bordesley High Street and Warwick Bar Conservation Areas are situated to the south of the RBS railway line. Other heritage assets impacted would be the remnants of the old station building fronting Curzon Street and remaining buried archaeology.
- 3.8. [Site Location](#)



Station Building, Station Square and Curzon Promenade

4. Planning History

- 4.1. A Compulsory Purchase Order was confirmed by the Secretary of State in relation to land associated with the delivery of the removal of Masshouse Circus as part of the removal of the city centre's 'concrete collar' with the highway works undertaken in 2002. Also, in 2002 a planning application for a much wider area than the current application site was submitted for a comprehensive scheme including offices, residential, food store, leisure, hotel and education buildings. Land ownership was subsequently consolidated by a further Compulsory Purchase Order granted in 2004.
- 4.2. This was followed by a series of consents across this site for a variety of uses including a new library of Birmingham, University Campus, residential, office and retail development.
- 4.3. The HS2 project was launched in November 2013 and following the parliamentary process the Hybrid Bill secured Royal Assent in February 2017. Through the use of compulsory purchase powers HS2 have since acquired much of the land where the station and public realm will be sited.

5. Consultation/PP Responses

Appropriate Bodies

- 5.1. Whilst the Act only requires consultation with three consultees ('appropriate bodies'), namely Natural England; the Environment Agency; and Historic Buildings and Monuments Commission for England (known as Historic England) a much wider consultation exercise has been undertaken.
- 5.2. Environment Agency – Raise no objection and comment that they have been involved in the remediation strategy of the site and are satisfied with the current remediation plans in relation to groundwater and contamination issues.
- 5.3. Historic England – The major elements of the scheme are welcome.
- 5.4. They consider that the design of the station is traditional in the sense that it offers a large and elegant train shed covering about half of the length of the trains. Noting that externally the roof structure is expressed by fins (or buttresses) which bring the structure to ground. They note that the loss of the Eagle and Tun is regrettable, but it was never a realistic option to keep in terms of the requirements of the station construction and maintenance. The integration of the busses (in one of the busiest locations in the city, if not the country) has been taken into account in the design of the landscape. They note that the single north/south connection through the station to Digbeth will be widened and closed to vehicular traffic. They add that the connection to Paternoster Square is dependent upon the extent of the bridging of the Westcoast Mainline and that both routes need to be as attractive as possible. However, a number of issues that they consider still need to be addressed are highlighted as follows:
 - They remain disappointed at the level of animation on the north elevation. They recognise the considerable change in level and practical constraints of the manner in which the whole structure is dug into the ground but would still

prefer to see the station more actively addressing the landscape in that direction to ensure that it is a desirable place to be.

- In respect of the setting of the Grade I (existing) Curzon Station they consider this to be disappointing in that whilst the screen wall being brought out to mark the street edge is a good idea they consider that it needs to be refined to produce a more elegant solution. They state that they do not wish to be prescriptive as to style, but it needs to reflect the strength of the Curzon building.
- Marking the location of platforms in the landscaping is welcome although they consider that this could go further (into the car park area). They welcome the marking of the location of the roundhouse (engine turning facility) in the landscaping which they now understand to be the first roundhouse in the world.
- Finally, they note that the area to the rear of the Grade I building is not intended to be part of the permanent HS2 scheme and is likely to be developed when the land is released after the station. Whilst beyond the bounds of this submission the integration of this building into future development needs to be considered. As the nature of this future development has not been determined they consider the demolition of the fragments of wall of the Grand Junction Railway at the eastern end of the site premature. They consider this to be of considerable significance dating from the 1830's with their assessment of the significance of the principal building noting that "the base of the screen wall of the GJR station...reflects the work of Liverpool's most accomplished 19th century architects, and draws upon the triumphal arches of ancient Rome to form a symbolic gateway to the future".

- 5.5. Natural England – No objection. Consider that the proposed development will not have significant adverse impact on statutorily protected sites or landscapes.

Other (Non-Statutory) Consultees

- 5.6. Transportation Development – Have provided a consolidated response for the three current applications. They note four areas of concern regarding highway impact which have been regularly discussed through the design evolution of the project.

1. The servicing access to Fazeley Street/New Bartholomew Street/New Canal Street area does not provide suitable details of how vehicles access the site, and where they may need to wait for access to this secure area, or be made to leave the area if a delivery or servicing activity is not permitted. This is a complicated arrangement with the potential of vehicles not being allowed to enter the site because of insufficient space or because they have no 'booking' and have no area to turn away from the site without reversing back into the complicated signalized junction which is designed to accommodate pedestrians, cyclists, Metro and general traffic.
2. The turning head and servicing access to the Woodman pub and old Curzon Street Station need further design resolution to suitably accommodate the turning requirements of vehicles in a space that is also public realm where pedestrians and vehicles will mix. The area also needs provide for taxi, coach and bus

manoeuvres as these regularly attend events at Millennium Point and park on Curzon Street.

3. The current layout is not commodious for cyclists and pedestrians with potential safety issues. They appreciate that the cycle route is within their site, however, there are currently cycle routes through this area and the proposals need to address how they will maintain accessibility. The service road will provide the only viable route for cyclists that does not involve dismounting and if it is also to provide a pedestrian route then it should be safe, legible and accessible. This is also relevant for the points noted above, especially in relation to how cyclists negotiate the Fazeley Street/Metro junction.
4. The plans show pedestrian crossing facilities on Curzon Street and junction alterations and further detailed work is needed to refine this draft design to ensure suitable pedestrian facilities are provided along with maintaining the highway network capacity.
- 5.7. They also note that the proposal requires stopping-up of the public highway in several locations. Part of this is noted on the City records along Fazeley Street, but additional stopping-up is required on Andover Street and other small areas as a result of the detailed design now submitted for the development. They question whether this covered in other powers of the HS2 consent or need to be referenced as part of these proposals.
- 5.8. There has been additional dialogue between HS2 and Transportation Development to agree these concerns are mitigated with a recommended condition on servicing arrangements when these are definitively known, and a series of additional design responses which will formally be provided in future schedule 4 and schedule 17 submissions.
- 5.9. Regulatory Services – No Objection. They note that they are precluded from commenting on air, land and noise issues as there is provision under other legislation as well as the HS2 CoCP (Code of Construction Practice) and HS2 Local Environmental Management Plans (LEMPs). HS2 are required to engage with local authorities to develop the Birmingham LEMP. HS2 have informed me that the Birmingham 2017 LMEP will be updated to reflect individual and local changes. If problems regarding Air Quality occur in the future (including issues as a result of construction) BCC can require the Birmingham LEMP to be revised accordingly.
- 5.10. HS2 are liaising with Regulatory Services regarding Section 61 submissions to mitigate noise from construction. In relation to the operational phase feel that the noise should be sufficiently mitigated based on the information provided.
- 5.11. HS2 have also been engaging with the city in relation to land contamination.
- 5.12. Lead Local Flood Authority – Raise no objection. Note that they would ordinarily provide comments in relation to the detailed design of the station however understand that as this project falls within the HS2 Act of Parliament, it will comply with the agreed technical standards rather than be subject to the requirements of the adopted Birmingham Development Plan 2017.
- 5.13. Therefore their observations are based on the limited information included within the design and access statement, and ongoing collaboration with HS2 and their consultants to promote the integration sustainable drainage within the projects and

to ensure that flood risk is not increased to third party land, and ensuring new buildings and infrastructure are resilient to surface water flooding.

- 5.14. They strongly support the provision of numerous SuDS features including rainwater garden and swales in addition to underground attenuation which supports our objective to achieve the key principles of SuDS; quantity control, quality control and biodiversity and amenity value within an iconic development.
- 5.15. Highways England – Have no comment to make on this application on the basis that the proposals would not alter the volume of traffic on the Strategic Road Network above the levels shown within the Environmental Statement.
- 5.16. Birmingham Civic Society – Recognise the scale, complexity and technical constraints and congratulate the design team for developing to this point. They consider the landscaping to be thoughtfully design and high quality and note the positive impact this can have on visitors to the city, acknowledging the technical, resilience against terrorist attack, day to day security and maintenance requirements. In respect of heritage assets, they note that this part of the city has historically been dominated by rail infrastructure, and that the importance of HS2 as a new ‘layer’ of infrastructure of national importance serving the city justifies these heritage impacts, which are relatively minimal. They add that the loss of the Eagle and Tun public house is sad but acknowledge this as one of many such buildings of such significance that will be impacted along the train line in less visible locations. In respect of security they consider that the Secured by Design approach, working with the police, should be followed to ensure that any current anti-social behaviour does not pose a risk to users of the station. Finally they consider that the ambition to limit car use around the station is to be applauded, but expect that the surrounding area will become highly congested at peak times and subject to opportunistic parking and drop offs around the officially imposed strategy but conclude that this is unavoidable without providing limitless parking spaces within the vicinity.
- 5.17. Victorian Society -Object to the proposals and raise three key concerns:
 1. Lack of activity and permeability onto Curzon Promenade. Increasing both would have a positive impact upon the future sustainability of both the Grade I Curzon Station and the Woodman Public House
 2. Object to the demolition of the Eagle and Tun public house and request that it is retained and included in the proposals. This locally listed building of 1900 is a good example of a public house by James and Lister Lea, with terracotta work to the exterior facades and tilework to the interior. The pub also has significant modern musical links with the band UB40, and more recently the singer Ed Sheeran. In the earlier Masterplan of 2015 the Eagle and Tun was depicted as included and integrated into the new station concourse, albeit without its roof and chimneys, but at least the façade and majority of the building was shown as preserved. In our view this locally listed building should be retained as part of the proposals, particularly as the Fox and Grapes in Freeman Street, another public house within the boundary of this application site which was grade II listed, has already been demolished before this application was submitted.
 3. Also object to the lack of information regarding the impact of and link between the proposed station building and Moor Street Station. They note that any proposals to integrate this new station with the neighbouring grade II listed Moor Street Station are not included with this application. They are also aware of the Vision document for Moor Street Station published in February 2019, which

proposes some significant interventions to the listed building. They therefore find it is not possible to properly consider the relationship between the new station and the grade II listed Moor Street Station, or indeed the impact of the proposals on the character and appearance of the listed Moor Street Station, without reference to how this might work holistically. Although some reference is made to the opportunity this might provide (Section 2.8, Design and Access Statement) there is no detail for proposed development on the site between the two station buildings. They wish, of course, also to be consulted on any proposals that are put forward to develop or which have an impact on the grade II listed Moor Street Station, but we object to these proposals, given this current lack of information on this aspect of the development of the site.

- 5.18. Network Rail – have no comments to make.
- 5.19. Employment Access Team – Raise no objection and note the continuing dialogue with HS2 regarding maximising local employment opportunities for the station development.
- 5.20. Severn Trent – No objections subject to the inclusion of a condition requiring the provision of foul and surface water drainage flow details.
- 5.21. West Midlands Fire Service – Confirm that there is continuing consultation with HS2 regarding access for fire and rescue purposes and water supplies for firefighting. Provide details of their access requirements for a fire tender and the internal arrangements within the building.
- 5.22. British Transport Police (BTP) – The BTP Designing Out Crime Unit are already engaged with HS2 regarding the designs of all proposed stations, including Curzon Street. They request that consultation with HS2 continues following the determination of this application.
- 5.23. West Midlands Police – Note that the proposed development would have the potential to increase crime and anti-social behaviour in the area and cite anti-social behaviour issues that have occurred in the nearby Eastside City Park. They add that lighting of the area should be consistent and note that there are pillars and recesses which could allow criminal activities to go unseen. They add that a comprehensive CCTV system should be installed. Detailed comments on the robustness of street furniture, glazing specification, alarm systems and security patrols of the station/public realm have been provided.
- 5.24. Access Birmingham – Welcomes the comprehensive Design and Access Statement and asks that consideration be given to the provision of a Changes Places toilet and that wayfinding signage is inclusive and includes pictorial and easily understood information. They add that lessons should be learnt from other poor examples of wayfinding and the criticisms of New Street Station.
- 5.25. Cadent (gas) - Have apparatus in the vicinity and require the developer to contact them before carrying out any works.
- 5.26. Whilst the Act does not require any public consultation, in accordance with the paper brought before your committee on the 22nd December 2016 a comprehensive consultation exercise such as carried out on a major planning application has been undertaken. Site and Press Notices have been posted and local occupiers and major landowners have been notified. Two responses were received:

- The level of cycle parking is disappointing and will quickly fill. HS2 or the Council should provide more on adjacent land.
 - Question where the Transport Assessment is and where the analysis of passenger journey origin and destination is and question how HS2 know the proportion of users of the east and western concourses. Questions where the analysis of interconnectivity to other station is and why there is no covered link to Moor Street Station or how this fits into the 'One Station' initiative.
- 5.27. The accompanying Design and Access Statement (p.239) sets out the engagement undertaken by HS2 in relation to the station. This includes the activity of the independent Design Review Panel, targeted stakeholder discussions and public events.

6. Policy and Legislative Context

Policy

- 6.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan 2005 (saved policies); Car Parking Guidelines SPD; Places for All (2001); Warwick Bar Conservation Area Character Appraisal and Supplementary Planning Policies; Digbeth, Deritend and Bordesley High Streets Conservation Area; Access for People with Disabilities SPD; Car Parking Guidelines SPD; Lighting Places; Regeneration Through Conservation SPG; the Shopfronts Design Guide (SPG); National Planning Policy Framework (as amended).
- 6.2. Also, the non-statutory Birmingham Curzon HS2: Masterplan for Growth and the Big City Plan.
- 6.3. [Local Policy](#)

Legislation

- 6.4. The primary legislation is the [High Speed Rail \(London to West-Midlands\) Act 2017](#), which dis-applies and/or amends the typical legislative planning regime. Schedule 17 of the Act sets out the following considerations in respect of the works proposed for Qualifying Authorities such as the city. In addition, in February 2017 the Department for Transport issued Schedule 17 [Statutory Guidance](#) to all Qualifying Authorities.

<p>Building Works</p>	<p>a) The design or external appearance of the building works ought to be modified-</p> <p>(i) to preserve the local environment or local amenity</p> <p>(ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area</p> <p>(iii) to preserve a site of archaeological or historic interest or nature conservation value and is reasonably capable of being so modified; or</p> <p>b) the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits</p>
<p>Earthwork Elements</p>	<p>a) The design or external appearance of the works ought to be modified-</p> <p>(i) to preserve the local environment or local amenity</p> <p>(ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area</p> <p>(iii) to preserve a site of archaeological or historic interest or nature conservation value</p>

	As the station is 'scheduled work' there is not the option to resist the submission on the basis that development ought to be carried out elsewhere.
Artificial Lighting of the New Canal Street Soffit	<p>That the design of the equipment, with respect to the emission of light, ought to, and could reasonably, be modified to preserve the local environment or local amenity.</p> <p>Again as this is scheduled work it is not open to resist this part of the application on the basis that they ought to be carried out elsewhere.</p>

- 6.5. In addition to Schedule 17 the Act places other controls on development, some in the form of mandatory requirements other in the form of further submissions. Further highways consents are required pursuant to Schedules 4 and 33, drainage is also controlled through Schedule 33 and noise is controlled through Section 61 of the Control of Pollutions Act 1974. Finally, consent would be required through S17 for the proposed lorry routes to construct the station.
- 6.6. There is a [Class Approval](#) in place that controls ancillary development whilst the works are being constructed. This includes handling of soil/topsoil; storage sites for construction materials; screening of works; temporary artificial lighting; dust suppression and road mud control measures. The Class Approval sets out the detailed requirements in relation to each of these matters, imposing conditions where relevant. These measures are enforceable through the usual planning enforcement regime.
- 6.7. In addition there are the [Environmental Minimum Requirements](#) (EMRs). This suite of documents set out overarching environmental and sustainability commitments. The EMRs consist of the following:
1. Code of Construction Practice (CoCP) – contains detailed control measures and standards to be implemented throughout Phase 1 of HS2.
 2. Planning Memorandum – Sets out the requirement of Qualifying Authorities (such as BCC) including participating in the national Planning Forum, and the expeditious handling of requests for approval and appropriate resourcing. It also places requirements on the Nominated Undertaker (i.e. HS2) to engage in pre-application discussions, assist with resource planning and provide indicative mitigation where necessary.
 3. Heritage Memorandum – provides the overarching approach to heritage matters including the establishment of a heritage sub-group of the Planning Forum. The Memorandum details how the investigation, recording and mitigation of impact to heritage assets will be undertaken. The Memorandum also provides an

explanation that the Listed Building and Conservation Areas Act is dis-applied for the list of buildings set out in Table 1 of Schedule 18 of the Act. It also introduces the practice of securing legal agreements with local authorities and Historic England in cases where Listed Building Consent would ordinarily be required to control alterations/demolition/building recording activity. For BCC this consists of the methodology for the demolition of the Fox and Grapes (now undertaken) and recording of vibration of listed buildings adjacent to the new railway such as the listed viaduct which the new railway will cross over to the east of the Middleway and Curzon Station. The Memorandum also sets out the Government's approach to human remains and burial grounds.

4. Environmental Memorandum – Sets out the overarching requirements on various environmental impacts of the scheme including nature conservation; ecology; water resources and flood risk; geological features; recreation and amenity impacts; landscape and visual; public open space; soils; agriculture and forestry; and excavated material. It also sets out the approach for key environmentally sensitive worksites along the route, although none of these are in Birmingham.
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- 6.8. The EMRs also include the [Undertakings and Assurances](#) that HS2 have committed to. These set out a number of detailed requirements that HS2 have to meet, with a number given to the city about how the station will be brought forward.
 - 6.9. The [HS2 Context Report](#) for Birmingham City sets out the broad legislative and approach to implementing HS2. It goes on to set out what works HS2 will be undertaking within the city (both permanent and temporary), landscape and restoration proposals, an early programme of Schedule 17 requests and a suite of plans to illustrate the above.
 - 6.10. In terms of managing the impact of construction traffic, in addition to the S17 approval of lorry routes, the Route wide Traffic Management Plan (RTMP) describes the principle and objectives for the management of transport, highways and traffic during the delivery of the works. Local Traffic Management Plans (LTMPs) will be issued along the route detailing the range of local controls and other significant works programmes for highways. There is a local Traffic Liaison Group where LTMPs and site specific traffic management are discussed.
 - 6.11. A series of [Planning Forum Notes](#) (PFN) have been agreed at the route wide Phase 1 Planning Forum. These provide guidance on a wide range of subjects including detailed procedural matters such as the content of submissions, model conditions, dealing with lorry routes, and indicative mitigation. There are currently 14 confirmed PFNs.



Curzon Promenade

7. Planning Considerations

Key Local Policy Context

- 7.1. The BDP recognises the overall benefits of HS2 helping to capitalise on the City's location at the heart of the UK's transportation network. GA1.2 states that any proposals for a HS2 station will need to be integrated into the area creating a world class arrival experience with enhanced connectivity to surrounding areas including Digbeth and the City Centre Core. Policy TP41 offers general support to the improvement of the city's rail network and TP39 sets out the requirement for the provision of safe and pleasant walking environments throughout the city. TP40 states the cycling will be encouraged through a programme of improvement to cycling infrastructure including routes and 'trip end' facilities, including railway stations.
- 7.2. TP12 sets out the city's approach to the historic environment, with great weight attached to the conservation of the city's heritage assets.
- 7.3. The non-statutory Birmingham Curzon HS2: Masterplan for Growth (July 2015) acknowledges the opportunity presented by HS2 and set the city's vision for the station and maximising the wider regenerative impacts of the station. Key themes set out in the document relate to connectivity, arrival experience, high quality public realm and world class architecture. Broad design visions for the wider Digbeth and Eastside areas are also set out, showing how the city could capitalise on the direct benefits of the train station.
- 7.4. As set out in paragraph 6.4, Schedule 17 includes a limited range of considerations and builds upon other controls in the Act. Each is considered in turn below.

Building Works

Design or External Appearance

I) Local Environment / Amenity

Independent Design Review Panel

- 7.5. As a result of an Assurance with HS2 secured as part of the parliamentary process there is an independent Design Review Panel specifically for the station. This is distinct from HS2's own independent panel which assesses all other Key Design Elements along the route (KDEs) and has involved officers. The panel is not a decision-making body but acts as a critical friend to the project. As required, the panel's final conclusions on the station design are included within this application and set out in the Design and Access Statement. On architecture the panel concluded that:
 - The designs represent a deceptively simple celebration of the building's engineering following on in the tradition of great stations such as St. Pancras
 - The arch structure is based on a simple concept but has been realised in a refined and subtle way creating a station design with the civic quality that Birmingham deserves

- Technical details such as the roof cowls, lighting poles and retail frontages has been given careful thought, so they contribute to the quality of the station overall
 - The panel is particularly appreciative of the way lifts have been integrated, so that the experience of using these is equal to the experience of using escalators – which is not often the case in stations elsewhere
 - It will be essential that the design quality promised by the current scheme is maintained through the construction stage. For example, the craftsmanship of the in-situ concrete columns will be critical to achieving the design intent
- 7.6. The panel also provide further comments in relation to the management of the station (some of which go beyond the scope of S17) and in particular:
- Warmly welcome that no ad-hoc commercial units will be allowed in the station and that guidelines will be put in place to ensure the long-term management of this space
 - Careful thought has been given to the integration of advertising space, but it will be equally essential for clear guidelines to be put in place to control the way this is used so that it does not detract from the arrival experience to the city.
- 7.7. As set out in paragraph 1.4 any further buildings around the station that are being explored as part of the commercialisation work stream by HS2 would not be within the Act and would require separate consent via the usual planning regime. Therefore, whilst the panel has made comments on this element of the wider project these are not material considerations for this current application. Comments in relation to the public realm are set out in the accompanying reports.
- 7.8. In respect of connectivity, whilst the wider routes and spaces are discussed in more detail in the accompanying reports, the station aids wayfinding through its architecture and layout. The building manages difficult levels and does all it can to aid connectivity to Digbeth, a key concern from the early design stages. The two-concourse approach not only gives added convenience to station users but also provides an active focal point at this eastern end of this substantial structure.

City Design

- 7.9. City Design Officers have been proactively engaged in pre-application discussions regarding the detailed design of the station and public realm for over 2 years, helping to develop the design from a theoretical concept to a deliverable piece of high-quality architecture.
- 7.10. Extensive comments have been provided in relation to the building's design and conditions have been recommended. The comments can be summarised as follows:

Siting – The setting back of the station from Moor Street Queensway represents a positive design response to the reference design and creates a larger Station Square and significantly improves pedestrian links. The design response at New Canal Street in effect creates a covered square enhancing the gateway into Digbeth, the stature of the eastern concourse and the connection with the City Park.

Form – The architect sought to create a form that provides an expression of a 21st century 'rail shed' and a world class station. The Design Officer considers that the

architect has delivered these requirements with the resultant design resulting in a (perceived to be) simple form which is enhanced by its considered architecture and structural elements.

Architecture - The design of the western concourse successfully delivers a number of functions. It is the primary visual express of HS2 in Birmingham; and the principal concourse for users of the station. The architect's response to these functions is the station's single span parabolic arched roof, which through its considered design expresses and fulfils these principle functions (user and city scape). Internally, the column free design creates an unrestricted environment that celebrates the roof and its supporting structure. Externally, the arced form presents a welcome gateway to travellers; and introduces a floating, sculptural element into the city scape, supported by the grand gesture of Station Square.

The celebration of the structure supporting this sculptural roof is publically expressed along Curzon Promenade by the principal piers. Sculptural forms in themselves, these effectively ground the structure, whilst helping to break the visual scale of the façade through a rhythm of bays that present different elements of the station.

The lesser statured eastern concourse helps the station connect / knit into the scale of New Canal Street and re-establishes a building line along this route. This connection is further aided by the architecture, with its rhythm of colonnades giving this element a human scale; whilst acknowledging the adjacent Old Curzon Station. Allied with the soffit detailing of the viaduct, its columns and the covered public space, the eastern concourse has a distinct, intermit character that complements its neighbouring Digbeth.

The overall form and architecture of the building is supported. Whilst there is a clear reference to the form of historic stations such as St Pancras (as referenced in the D&A), their ability to endure and remain publically revered, points to how this form, (coupled with well executed architecture) will help Curzon Street Station become an iconic building for Birmingham and the HS2 network.

- 7.11. In conclusion, the Design Officer supports approval subject to conditions being attached to secure the prior approval of the finer detail of the building to include multiple sample panels of key architectural elements.
 - 7.12. The layout, form and quality of architecture will help to capture the wider regenerative benefits of HS2 as envisaged in the Curzon Masterplan; acting as a catalyst for further investment both in the Digbeth/Eastside, Birmingham, and the wider West Midlands region. The design is considered to be of a world class standard and is supported subject to a number of conditions to safeguard the quality of the finer detail of the building.
- II) Preventing and/or reducing prejudicial effects on road safety or on the free flow of traffic in the local area
- 7.13. Whilst the station and surrounding public realm applications are separate submissions there is clearly a strong relationship between these submissions in determining how people will move around and through the station. In respect of material considerations, Schedule 17 is exclusively concerned with road safety and free flow of (presumably) road traffic in the vicinity. The adequacy and provision of

pedestrian and cycle routes around the station are discussed in the accompanying reports.

- 7.14. In terms of highway changes from a pre-HS2 environment the scheme shows the removal and stopping up of the western end of Fazeley Street and the northern part of Park Street to accommodate the station building, the removal of New Canal Street as a through route, the removal of Banbury Street and termination of Andover Street, creation of a service entrance from Fazeley Street existing at the junction of Park Street and Bordesley Street and creation of a new station car park access off Curzon Street.
- 7.15. The Act provides authority for HS2 to undertake, and grants deemed consent for, a list of Scheduled Works and allows deviation for these named works within limits set out on accompanying plans. The Scheduled Works include an access into the site from Curzon Street and the (no longer proposed) realignment of Curzon Street to form a southbound only 'loop' around the Woodman Public House.
- 7.16. Schedule 4 includes powers to stop up parts of Andover Street, New Canal Street, Banbury Street, Fazeley Street and Park Street. Temporary stopping up powers are also granted by the Act. Schedule 4 highway consents are required for the detail of these works.
- 7.17. In highway terms there are a few key differences between the reference design in the Act and the current detailed design, namely:
- The removal of a new 'loop' of highway around the Woodman Public House
 - The provision of an 'in and out' single point of access to the station car park from Curzon Street
 - Coordination with the Midland Metro Alliance regarding the design of New Canal Street
- 7.18. In terms of the matters for consideration under Schedule 17 the key elements are the nature and arrangement of the station's vehicular access (including taxis) and the servicing of the station.

Transportation Development

- 7.19. Have concerns regarding the operation of the station. Dealing with each point in turn:

Fazeley Street / Delivery / Servicing

- 7.20. Transportation Development raise concerns about how the intended access to the service yard would operate. The key concerns relate to how HS2 could undertake security checks prior to entering the station, and what happens whilst a vehicle is being checked on the public highway or entry is rejected. The current strategy sees vehicles parked in a loading bay on Fazeley Street whilst checks are undertaken, this reduces the possibility of rejected vehicles needing to reverse out onto the busy junction of Fazeley Street/New Canal Street.
- 7.21. HS2, in response, note that it will be some years before the servicing area is brought into use (and therefore the use and operation of the highway and surrounding sites may change). They therefore conclude that the best remedy to this concern is to place a condition on the application which states that details of the safe vehicle

management measures for the service area be provided. This would prevent the service area of the station becoming operational prior to acceptable details being agreed. This would ensure that a safe arrangement for use of the servicing area would be in place prior to its use, therefore overcoming any potential safety issues raised by Transportation Development.

Curzon Street and the Woodman Public House

- 7.22. Transportation Development have safety concerns around the distance of this turning area from the Woodman Public House and the principle of pedestrians and vehicles sharing the same space.
- 7.23. In terms of servicing the pub, HS2 have committed to amending the public realm design to allow servicing next to the building (rather than, unrealistically, expecting deliveries to be carted circa 70m from the turning area to the pub). A condition has been recommended to secure the detail of this.
- 7.24. Considering the safety of the turning area when mixing vehicles and pedestrians, this would have very limited use. The historic Curzon Station would have limited requirements and benefits from its own car park area. The only other site to access this end of Curzon Street would be Millennium Point which has a service access that crosses part of the park then runs to the west of the science garden to a yard behind the building. The vehicles access arrangements for this service yard would remain largely unchanged (i.e. they would not need to use the turning area) except that it could now only be accessed via Curzon Street rather than New Canal Street.
- 7.25. Therefore, the turning area would solely be for vehicles who have accessed Curzon Street beyond the station and need to turn around. Whilst technically the area must provide sufficient space for larger vehicles (to avoid them getting trapped) this would not form a service area. The frequency of use of this should be low subject to securing adequate controls on the use of Curzon Street beyond the station (such as preventing access except for access through an appropriate Traffic Regulation Order). This issue can be controlled via the Schedule 4 highway approval process and an informative telling HS2 that this is required is recommended.

Cycle and Pedestrian Connectivity

- 7.26. These issues are discussed in the accompanying public realm reports given the scope of the station application is limited to the building.

Curzon Street crossing / junction layout

- 7.27. Again, these issues are discussed in the accompanying applications.

Highway Impact – Free Flow

- 7.28. The Environmental Statement (ES) supporting the Act contains a detailed Transport Assessment (dated 2013) of the impact of the route. The Assessment shows that Curzon Circle is forecast to operate beyond its capacity from 2021 (regardless of HS2). Works to this junction and the Middleway in general (including Garrison Circus) were therefore proposed as part of the mitigation works. Whilst not part of this application Members should note that active discussions between HS2, TfWM and the city continue to take place around the best form of these works given the changes to the local highway environment since this report including the changes to

Moor Street Queensway (introduction of a bus gate) and the imminent introduction of the Clean Air Zone. In addition, more is now known about the timing and nature of the proposed tramway extension through the area.

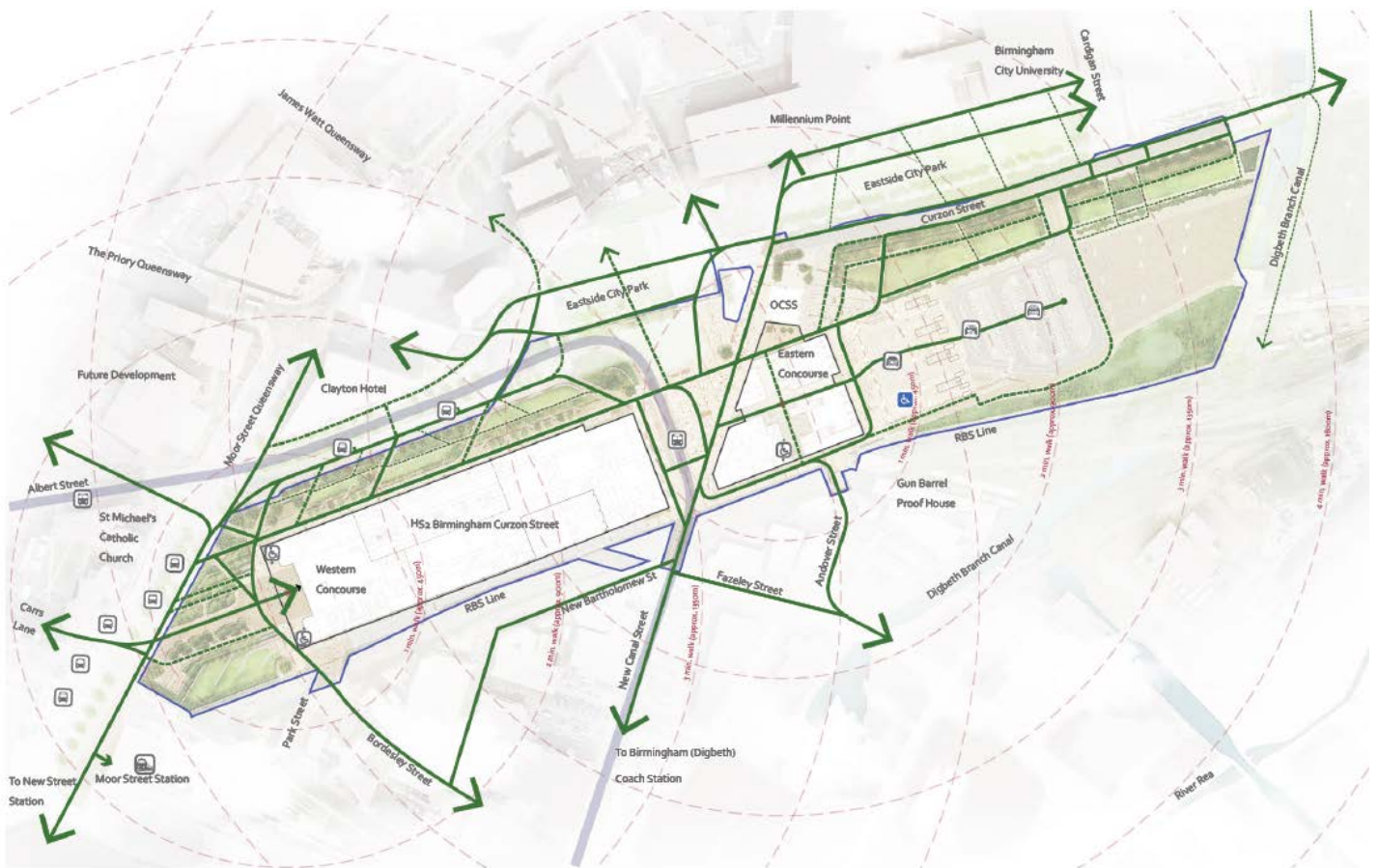
- 7.29. Construction traffic impacts were also considered as part of this Transport Assessment.
- 7.30. The conclusion of the TA is that in terms of trip generation the proposed scheme will result in a reduction of vehicular trips compared to the future baseline given that this would have included the major development proposals previously consented at the site. In respect of strategic impacts, the potential works described above to Garrison and Curzon Circus were a result of the impacts of the road diversions and closures necessary to deliver the station.
- 7.31. In terms of local road network impacts, some mitigation could have been necessary to traffic signal timings on Moor Street and the signalisation of the Curzon Street Cardigan Street junction. However, any changes to Moor Street will be developed as part of that project given that there is no vehicular access to the station from this western end. In addition, the impacts at Cardigan Street/Curzon Street would be further developed in conjunction with HS2 as part of the developing strategy for works to Lawley Middleway.

Car Parking

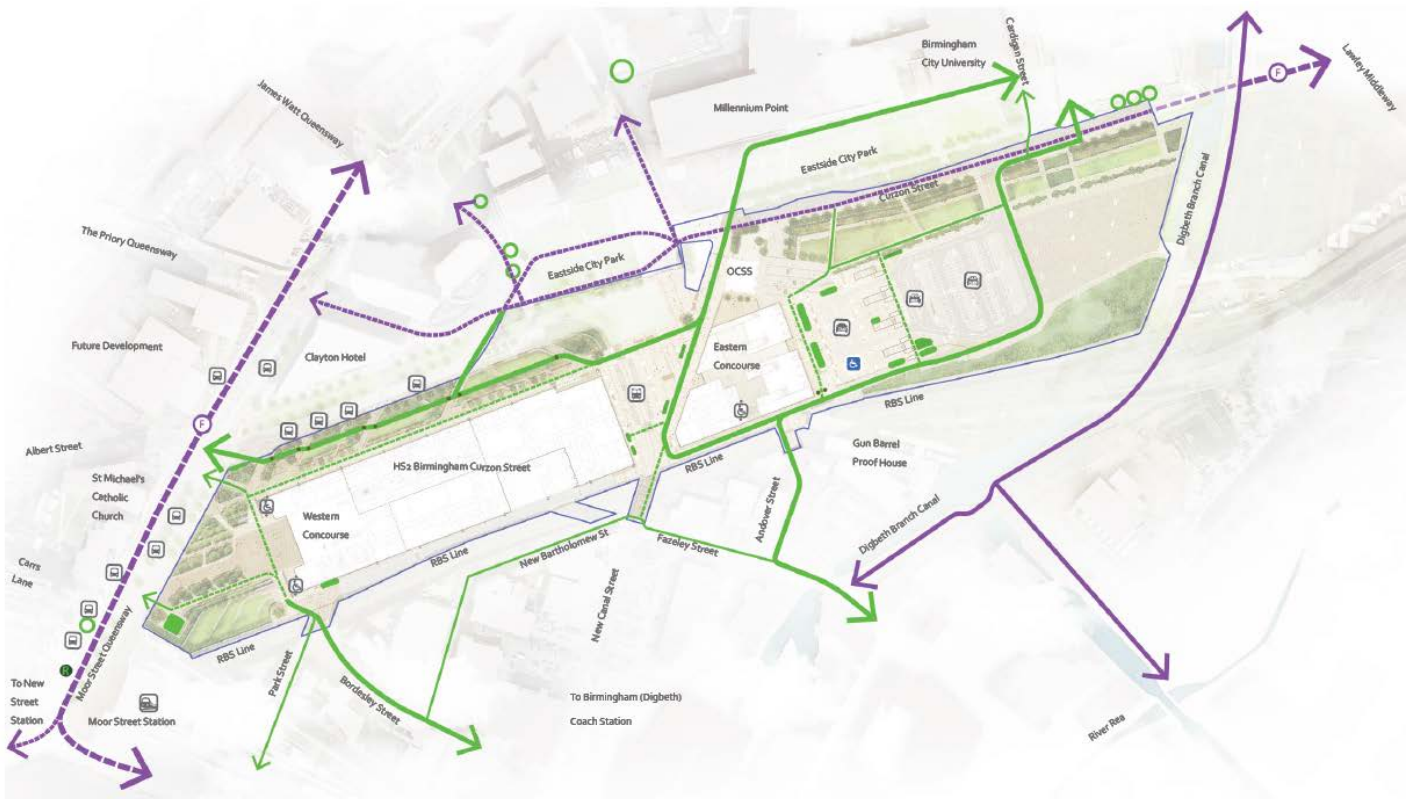
- 7.32. The ES TA (2013) notes that the station would increase car parking demand in the local area for short stay ('kiss and ride') and longer stay parking. It notes that the reference design includes 60 drop off/pick up spaces accessed off Curzon Street with further space for staff parking provided. No long-term parking was proposed as part of the reference design. The TA concludes that in year 2041 a maximum of 38 spaces would be occupied in the AM peak and 51 spaces would be occupied in the PM peak.
- 7.33. In respect of long stay parking, by year 2041 the TA concludes that the station is likely to generate an additional demand of around 112 passengers in the AM peak and 82 passengers in the PM peak by private car using local long stay parking facilities. It also acknowledges that the city is not keen to promote commuter parking within the city centre.
- 7.34. Turning to taxi provision, the TA considers that by 2041 once the station is running at a capacity of six trains an hour, a total of 13 drop offs per train for the AM peak and 24 per train for the PM peak. In addition, pick-ups for year 2041 would be 24 taxis per train for AM peak and 15 taxis per train in the PM peak. It concludes that based on the average maximum demand per train during peak hours, and assuming the staggered arrival of taxis, particularly in relation to drop-off of passenger, the capacity provided for the proposed scheme was considered suitable for the forecast demand. The reference design included two taxi areas, one at Curzon Street, the other at Park Street. The design allowed for 11 taxi drop offs on Curzon Street and space for 40 queuing taxis between New Canal Street and Bordesley Street.
- 7.35. In comparison the proposed S17 design provides consolidated taxi provision at the eastern end of the station, with some 47 taxi spaces provided within the car park area accessed directly from Curzon Street.

Conclusions on Highway Impacts

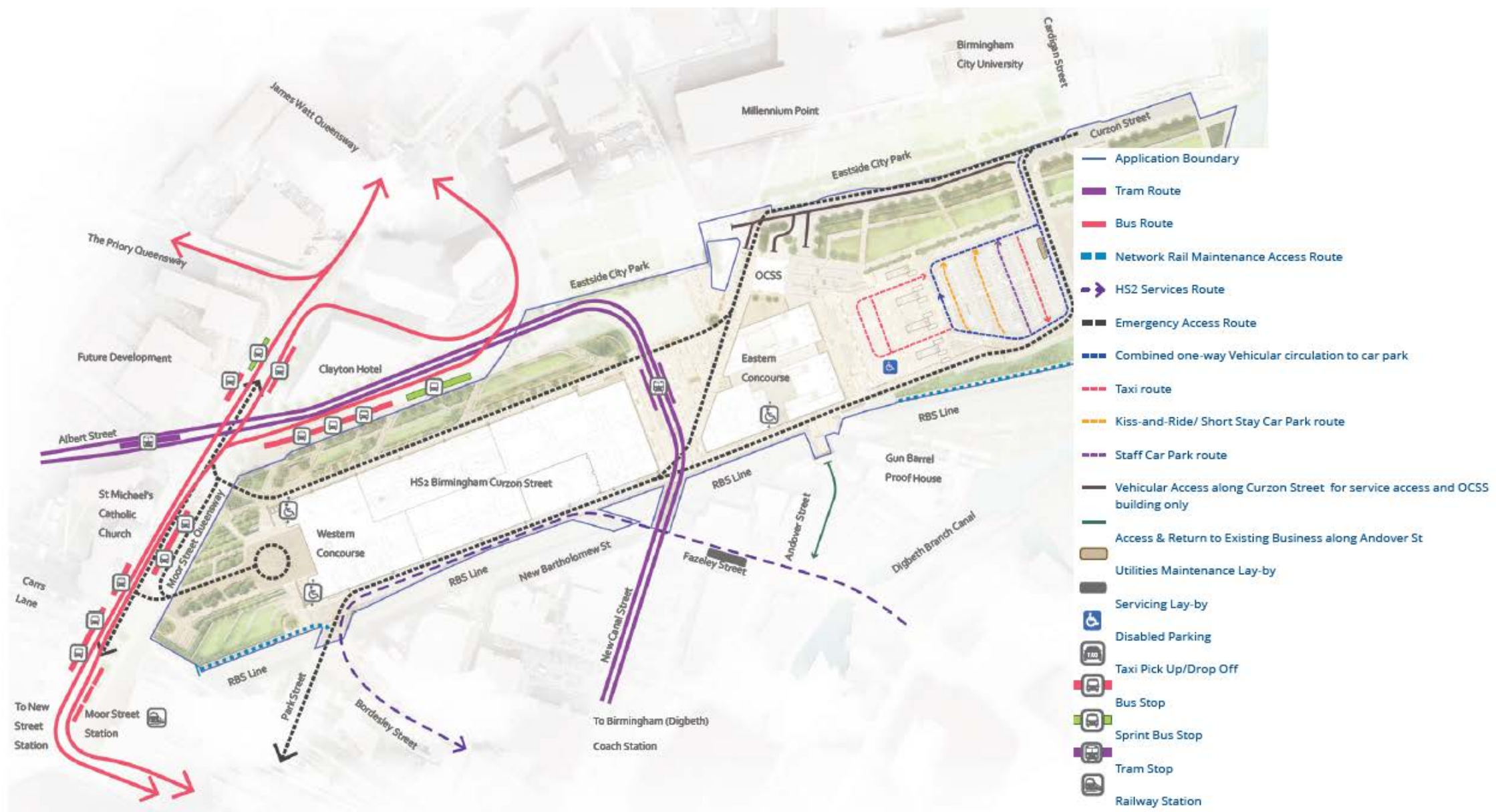
- 7.36. The proposed station design, including a service area to the south and the wider proposals such as points of access and the footprint of the building are in accordance with the Act and demonstrate a progression from the reference design. Concerns have been raised by Transportation Development however officers are satisfied that these can be overcome by condition or other controls through the Act, which will be referenced by an informative attached to the consent.
- 7.37. It is also noted that the wider area is subject to change at a rapid pace which is likely to accelerate further when the station's opening is imminent. It is therefore appropriate to delay consideration of the detailed servicing strategy until more certainty about the highway environment around the station is known. However, fundamentally, this application seeks consent for a station building as proposed and no objections are raised to the position of the servicing area, pedestrian access points to the building or the wider layout as set out in this and the accompanying applications. Therefore, consent should not be withheld on highway safety / free flow grounds subject to the recommended conditions and further controls available through the Act, including Schedule 4.



Pedestrian Movement Around the Station



Cyclist Movements Around the Station



Vehicular Movements

III) Archaeological and historic interest

- 7.38. As set out above, Historic England generally welcome the application but raise a number of concerns. Dealing with each in turn:

Animation of the North-western Facade

- 7.39. Animation of this key public space was a concern for officers during pre-application discussions who are now satisfied that every opportunity for creating animation has been taken, working within the technical constraints. Retail and office frontages have been provided at each end of Curzon Promenade and the platform level will help to animate the intermediate part of this long frontage. Inevitably there are areas where structure and back of house facilities break this façade, however officers are satisfied that these have been kept to a minimum. The majority of the back of house facilities are located on the elevation facing the RBS viaduct, outside of public view.

Screen Wall

- 7.40. Whilst acknowledging that the idea of the screen wall is good, they consider that it could be handled more confidently and determine that the new setting of the Curzon Station is disappointing. This wall forms a continuation of the treatment used around the entire eastern concourse with a consistent frame with only the treatment of inside varying as you move around this structure. The typologies include glazing, openable metal screens, metal panels and louvered panels in addition to open colonnade as per the wall adjacent to the Grade I listed building. This colonnade would provide an open-air route between the two station buildings linking the car park to the New Canal Street area.
- 7.41. The City Design Manager questions whether the screen wall should just stop as currently designed or whether it could be reduced in length by a bay and return towards the car park.
- 7.42. Officers consider the proposed façade treatment a well-considered and elegant solution, with openings of 4m X 2.2m these are considered to be substantial enough to appear confident when viewed in conjunction with the Grade I listed building. Officers do not consider the overall setting of the Grade I to be disappointing and feel that the design has responded positively to this building of substantial historic significance within the technical constraints. In respect of the City Design Manager's comments, the current design is considered to have a satisfactory relationship with this building as a standalone wall, with the suggestion of an additional element running along the station disrupting views of the side of the station building, particularly when existing the eastern concourse from the north facing exit. A recommended condition requires provision of a sample panel to secure a high-quality finish to this element of the station.

Marking of Platforms in the Landscape

- 7.43. Whilst not the subject of this application, the area to the rear of the former station is proposed to be an area of hard paving in high a high-quality natural stone with benches provided. This will provide uninterrupted views of the rear of the listed building, with the paving format marking the locations of the former platforms. These terminate prior to the car parking area which is at a different level with steps and a ramp providing connectively between the two which provides a natural termination

point for these platform features. It should be noted that the longest of these features is almost 45m long.

Future Development and the Grand Junction Wall

- 7.44. As Historic England acknowledge, the merits of any future development around the station and viaducts is not for consideration at this time and would be determined on their merits. The accompanying applications include the loss of the remaining fragments of the Grand Junction Railway at the eastern end of the site. The remains of the wall are fragmentary, altered and truncated at varying heights. Consideration of the loss of the remnants of this wall are set out in the accompanying report.

Archaeology

- 7.45. As set out in the HS2 Heritage Memorandum, a route-wide general written scheme of investigation: Historic Environment Research and Delivery Strategy (known as the GWSI: HERDS). The HERDS set out the approach to archaeological investigation including the detail of how the works are undertaken, stakeholder engagement, and the archaeological potential along the route on a period-by-period basis.
- 7.46. More generally, the Heritage Memorandum sets out the approach to considering heritage in the design and implementation of the works, and states that the sympathetic design of new structures and alterations and the careful integration of heritage assets into construction works will be of particular importance. It adds that the desirability of reducing harm to the setting of nearby heritage assets will be a key consideration of the design process.
- 7.47. Works may include the protection and preservation of assets in situ, investigation and recording in advance of enabling and construction works, and/or the implementation of investigation and recording during enabling and construction works.
- 7.48. The supporting Written Statement notes that the management of archaeology during construction is not a matter for approval under Schedule 17.
- 7.49. Notwithstanding this, there have been extensive investigations at the Curzon site. This has included the exhumation of remains at the former Park Street and Freeman Street burial grounds together with extensive excavations of the former railway platforms, sidings etc to the rear of the original Curzon Street Station. The need for and scope of any further archaeological investigation is presently under consideration.
- 7.50. As part of the accompanying applications, archaeological features such as the engine turn facility and the remnants of the boundary wall along Curzon Street are to be represented in the proposed landscape design.³¹
- 7.51. The City Design Manager raises no concerns regarding the archaeological impact of the station building.

Other Heritage Assets

Eagle and Tun

- 7.52. The reference design used at ES stage included the retention of the lower part of the Eagle and Tun, removing the roof from the building to make way for the station and viaduct structure. The Eagle and Tun is a locally listed building, Grade B. Grade B is the mid-grade of locally listing and is defined as “structures or features that are important to the city wide architectural context or the local street scene, and warrant positive efforts to ensure their preservation”.
- 7.53. As the detailed design has progressed it has become clear that the retention of a meaningful amount of historic fabric is not possible once the need to construct and thereafter maintain the viaduct above have been allowed for. The wholesale relocation the building to an open-air museum but was not feasible for primarily financial reasons. Therefore, the proposed design shows the removal of the entire building. Whilst this is regrettable, HS2 are working with the city and stakeholders to salvage artefacts of value from the building, a programme of building and an event to acknowledge the (particularly musical) legacy of the building.
- 7.54. Considering the physical technical constraints on the construction of the proposed station, the architectural quality of the station, the status of the building (locally listed, B) and the recording and salvage proposed, the total loss of this building is justified.

Fox and Grapes Public House

- 7.55. It should be noted that the Act consented the total demolition of the extensively fire damaged Fox and Grapes public House (Grade II) subject to a Heritage Agreement between HS2, Historic England and the city. The agreement was completed in November 2017; the building was demolished in September 2018 and subsequently de-listed.

Setting of Assets

- 7.56. The proposal will fundamentally impact upon the setting of the original Hardwick listed Curzon Street Station (Grade I), the Woodman Public House (Grade II) and Moor Street Station (Grade II). In addition, there would be numerous other listed and locally listed structures within the vicinity that would have their setting altered as a consequence of the proposals.
- 7.57. The proposed station building sits within a vertical and horizontal envelope that sets the overall scale of the structure – this is defined by the Act. Therefore, the overall scale of the building and viaduct is consented. Notwithstanding this effort to rationalise and refine the design of the structure have been taken where possible – to the benefit of neighbouring assets.
- 7.58. Given its Grade I designation combined with its proximity to the station, the historic Curzon Street Station will have its setting most fundamentally changed. The building sits almost in isolation and is a dominant feature in the townscape. It is noted that the setting of this building has fundamentally changed since its construction, with a combination of railway yards and industrial buildings providing a very poor setting in the past. Efforts to reduce the station’s impact upon this building have been secured through the detailed design process, with the biggest beneficial change being the reduction in the size of the main station roof, which now finishes on the opposite side of New Canal Street. This greatly reduces the scale of the overall structure in the immediate proximity to this building.

- 7.59. A colonnade that holds the building line of New Canal Street creating an open winter garden type area is proposed between the original Curzon Station and the eastern concourse. As set out above officers consider that the existing design is satisfactory. The current scheme balances the desire to mark the former line of New Canal Street with the impact on the setting of the building successfully and the changes suggested would have marginal positive (setting from the front) and negative (setting from the side) impacts. As such officer support the current design solution.
- 7.60. In relation to the Woodman Public House, the overall environmental enhancements offered by the station and surrounding public realm will offer an overall positive benefit to the setting of this public house.
- 7.61. Considering the setting of St. Michael's Catholic Church, this building sits within an emerging urban context, with the recent consent for Martineau Galleries further changing its immediate environs. The setting back of the station from Moor Street would offer some benefit to this building compared with the reference design.
- 7.62. In respect of the former Christopher Wray building, the station is some distance from this, and its immediate setting consists of large buildings. The proposed public realm set out in the accompanying applications will offer some marginal benefit to the setting of this building.
- 7.63. In terms of Moor Street, the other significant change since reference design is the pulling back of the western concourse from Moor Street Queensway. Whilst a key benefit of this is to aide legibility into Digbeth it would also help reduce the impact upon Moor Street Station. In addition, there is a synergy of use given that both are key city centre railway stations.
- 7.64. In respect of the impacts on the listed buildings and Conservation Areas to the south, the station sits within the limits set in the Act. The overall handling of the materials and form of the station roof (clearly indicating the use of the building) and details of the elevations is well considered and the resultant design would be of the highest quality. Given the scale of the building and associated infrastructure, the station will clearly have an impact upon the setting of the conservation area and these listed buildings. However, the quality of the design, form of the main engine shed roof and intervening RBS viaduct suitably mitigate the impact on these heritage assets with the parameters available through the Act.
- 7.65. Finally, in relation to the listed canal bridge and railway viaduct to the east, these are some distance from the station and there would be intervening viaduct structure that will come forward as part of future Schedule 17 applications.
- 7.66. In conclusion on heritage matters, the proposed design fully mitigates the potential impacts (in the context of the Act) and no further changes are recommended in this regard.

Nature Conservation Value

- 7.67. The City's Ecologist raises no objection and notes that the bulk of the ecological enhancement is associated with the public realm. He states that it is disappointing that biodiverse roofs have not been included on the platform canopies.
- 7.68. As acknowledged the majority of the mitigation measures form part of the public realm proposals. In terms the platform canopies the majority of these are covered

with photovoltaic panels to contribute to the net zero carbon rating. The PV panels, which are also on the southern elevation of the station building, can only be located in certain locations to achieve the technical performance. Considering the broader sustainability and ecological enhancement measures offered by the wider station development the provision of PV panels in lieu of biodiverse roofs is considered acceptable.

- 7.69. Natural England raises no objection and confirms that no ecologically significant sites would be impacted by the station proposals.
- 7.70. The city's Arboriculturalist notes the wider proposals as shown on the accompanying applications which he considers very good with the detail of the tree pits well planned to support the suggested tree species. He notes that the total landscaping proposed measures approximately 24,240 sq.m. The approximate canopy coverage of Park Street Gardens was 6610 sq.m, and the proposed canopy coverage (once established and maturing) is estimated at 8439 sq.m (a 35% coverage within the given area.) This is a welcome increase in coverage in the long term where there can be high confidence of establishment and maintenance.
- 7.71. The station proposals would result in the loss of an area with limited nature conservation value. The proposals in their totality, including the surrounding public realm, offer a significant uplift in the nature conservation value of the site with significant planting and other specific mitigation measures proposed to maximise the ecological benefits of the proposals.
- B) The development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits
- 7.72. The limits of the station envelope are explicitly defined within the Act. The current scheme is fully compliant with these limits. In terms of height the part of the station with the roof is close to the upper height limit. Turning to layout, the station building has been pulled away from Moor Street Queensway as far as possible to:
- Create a meaningful and exciting civic space to the city facing side of the station
 - Significantly improve the link between the city core and Digbeth via Bordesley Street
- 7.73. In addition, limiting the main station roof to part of the platforms works to minimise the impact upon the grade I listed Curzon Station.
- 7.74. Therefore, in respect of the limits of deviation set out in the Act, the station is in the best location and takes every opportunity to secure the best design, connectivity and heritage impact outcomes possible.

Artificial Lighting of the New Canal Street Soffit

- 7.75. The lighting of the New Canal Street area beneath the station viaduct will comprise of lighting units sited within profiles of the concrete structure. This provides a simple and elegant solution rather than having columns in the street or obviously bolted on light fittings. The concrete profiles continue into the roof treatment within the eastern concourse and taxi drop off area beyond, helping to emphasise the horizontality of the overall viaduct structure and act as a way showing element linking the taxi drop off to the tramstop area.

- 7.76. As such the design of this feature is acceptable and supported.

Earthwork Elements

- 7.77. For this application the earthworks largely consist of the re-profiling of the ground levels to facilitate the creation of a functional railway station that successfully interfaces with the spaces around it.
- 7.78. The station manages a significant transition in ground levels with the railway entering the city centre on viaduct and effectively burying itself into the hill side adjacent to Moor Street Queensway.
- 7.79. Plans show that beyond the train buffer area a large retaining wall, which would be located underground, would retain the level of the Station Square which interfaces with Moor Street Queensway. Stairs and public lifts are provided either side of the western end of the station building, with level access also achievable along Curzon Promenade (see the accompanying applications).
- 7.80. There are no archaeological or highway impacts over those considered above in relation to 'building works'.
- 7.81. Given that the majority of the external areas are not part of the station application the routes and spaces around the building are considered in the accompanying applications. Whilst it is difficult to consider the proposed level changes/earthworks in isolation the three applications together combine to show how the proposals solve the challenging levels of this site in a creative and successful way. Level access is provided at each of the entrances and active edges are secured as much as possible where the building interacts with publically accessible urban realm.

Other Matters

Indicative Mitigation

- 7.82. As set out in the Planning Memorandum, the proposals include the proposed mitigation measures in respect of the station works. These measures are not for detailed consideration at this stage as a further submission would need to be made once implemented ('bringing into use'). However, this is an opportunity for early sight of and comment on the measures proposed.
- 7.83. The specific mitigation measure proposed as part of these works is principally the Environmental Mitigation Zone (EMZ). This is a linear shaped space between the existing RBS railway line and the HS2 railway. It is proposed to plant the area with native broad-leaf woodland whip and transplants in a wildflower grassland retaining maintenance access.
- 7.84. Whilst overlapping with the applications for the public realm, further details regarding the overall mitigation include the specification of the wider hard and soft landscaping across the wider station development; a sustainable drainage scheme including urban rain gardens and conveyance swales; and a commitment to biodiversity in the wider scheme to include the landscape planting strategy, log piles within the EMZ, insect boxes (minimum of 30 insect houses), bird boxes (a minimum of 50 across the wider site), wildflower planting and amenity lawns to Curzon Street and Curzon promenade.

- 7.85. As set out above, the city's Ecologist supports the proposed indicative mitigation.

Sustainability

- 7.86. In addition to the measures set out above, the Design and Access Statement states that the station is on target to achieve a net zero carbon building through the deployment of low and zero carbon technologies, reducing carbon emission from the 'regulated load' by 103%. These technologies include air source heat pumps. LED lighting and photovoltaic panels.
- 7.87. Passive provision for connection to the District Heating network will be made. Connection to this network from day one was thoroughly explored however due to the position of the network not being adjacent to the station and that the decarbonisation of the energy sources of the network has yet to take place this was not possible.
- 7.88. In addition, passive provision that includes ductwork and a capable energy supply for electric vehicle charging points for 50% of the car park would be provided to provide a flexible yet future ready approach.

Local Employment

- 7.89. As set out above, these matters are not relevant to the determination of the Schedule 17 applications. However, HS2 do have an undertaking and assurance with the city in relation to Skills, Education and Employment outputs and are working towards maximising the local employment and skills benefits presented by the project.



Western Concourse looking toward Station Square with the City Core beyond

8. Conclusion

- 8.1. In conclusion, the design of the station, through a significant period of productive discussions, has evolved significantly from the reference design to architecture that is truly world class. The elegant and (deceptively) simple form of the main station building clearly reads as a railway station and harks back to traditional station architecture, delivering this in a confident and contemporary way. The attention to detail has been encouraging and a number of conditions to ensure that this design intent is successfully realised are attached.
- 8.2. Most importantly, the station does all it can to enhance connectivity across this part of the city, and into Digbeth in particular.
- 8.3. In respect of highway, nature conservation and heritage impacts these are either fully mitigated through the design, controlled through other parts of the Act or are acceptable when the planning balance is applied.
- 8.4. Approval is therefore recommended.

9. Recommendation

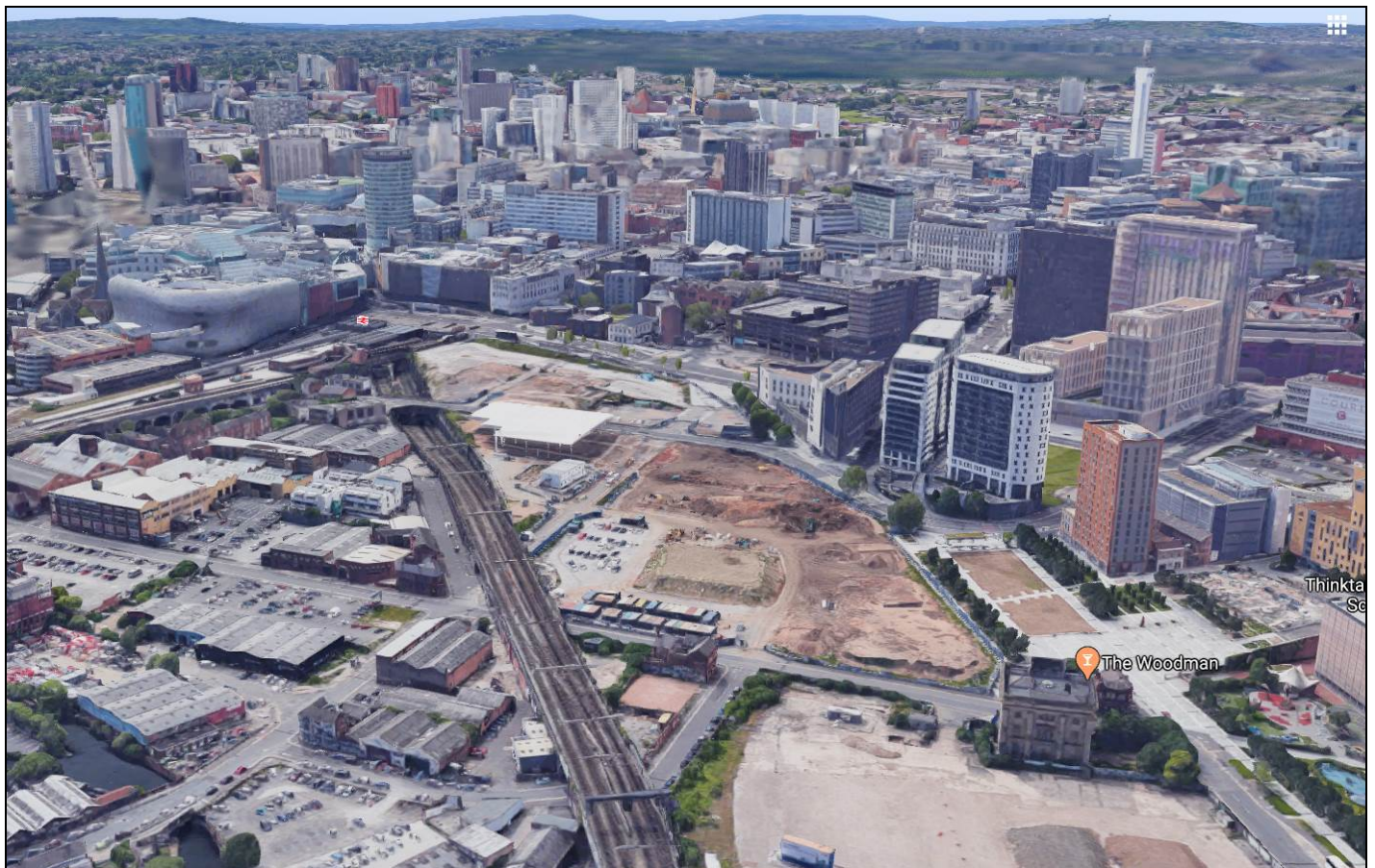
- 9.1. That the application for Schedule 17 is APPROVED subject to the conditions listed below:

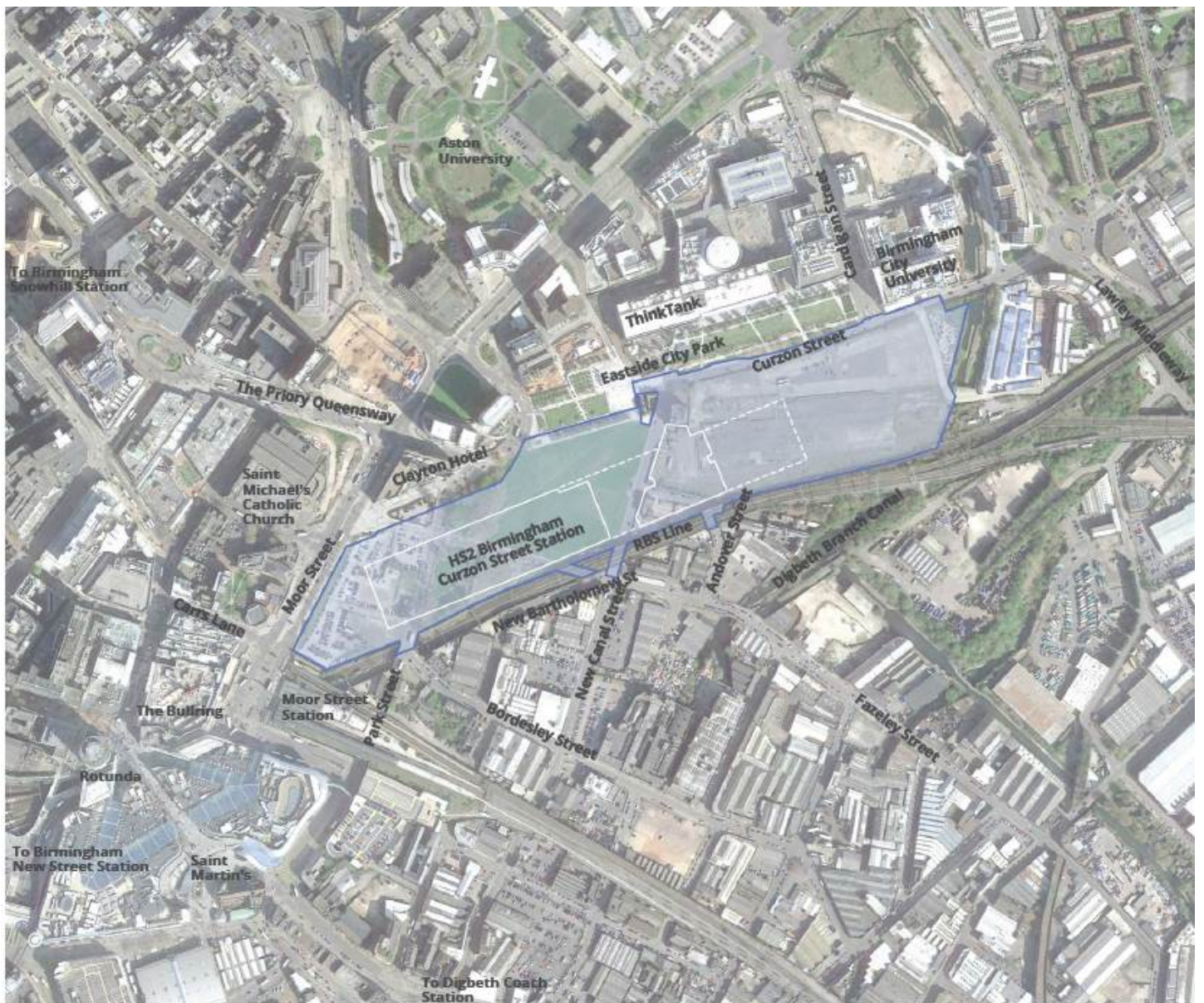
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- 1 Requires the prior approval of a sample panel for gable facades
 - 2 Requires the prior approval of a detailed service yard mitigation measures
 - 3 Requires the prior approval of a sample concrete pier
 - 4 Requires the prior approval of a sample panel for the north and south facing facades
 - 5 Requires the prior approval of sample panels of the external cladding of the eastern concourse
 - 6 Requires prior approval of alternative materials for the viaduct edge/soffit detail at the eastern concourse
 - 7 Requires the prior approval of a sample of the roof perimeter cladding
 - 8 Require the prior approval of a sample panel for the station's roof
 - 9 All areas of clear glazing as illustrated on the approved plans must remain free of any coverings or signage that reduces the transparency of the glazing for the life of the building, unless agreed in writing by the Local Planning Authority.
 - 10 Requires the prior approval of a sample roof pod
 - 11 Requires the scheme to be in accordance with the listed approved plans
-

Case Officer: Nicholas Jackson

Photo(s)

Google Earth Aerial Views of the site and environs showing the tent used as part of the exhumations

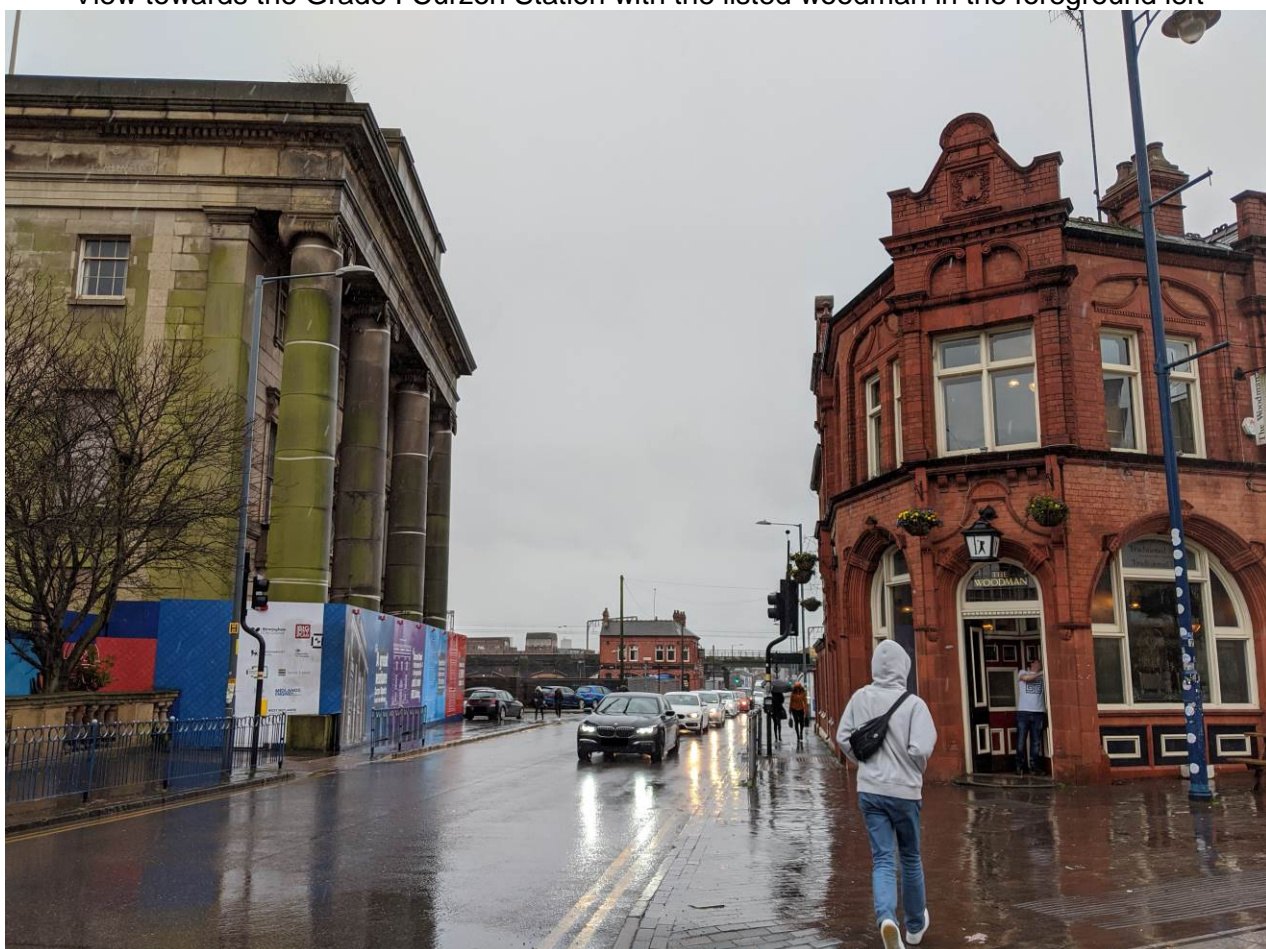




Panoramic View of the western part of the site from Eastside City Park



View towards the Grade I Curzon Station with the listed woodman in the foreground left



View approximately south along New Canal Street

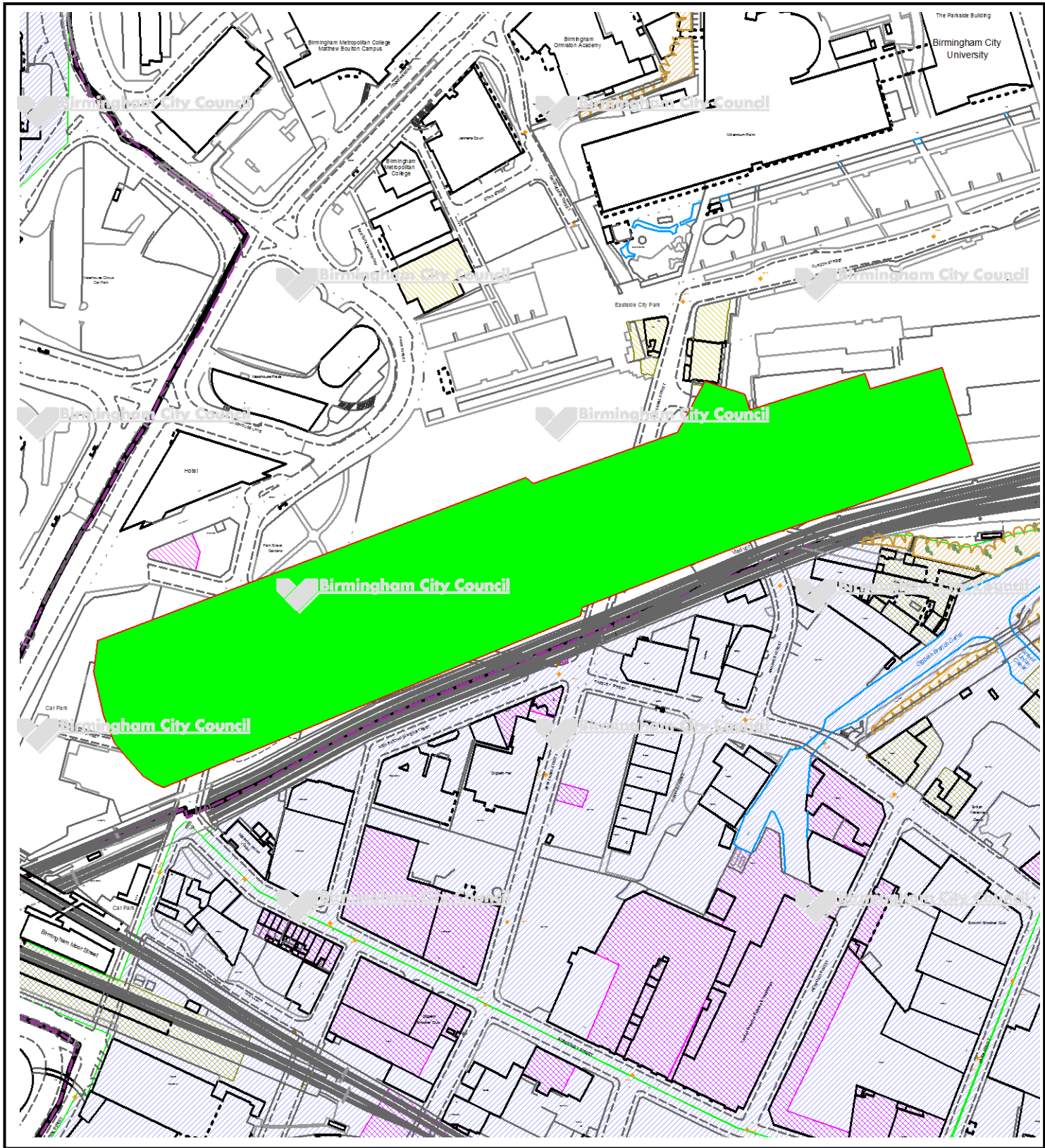


View of Millennium Point and Eastside City Park



View of the on-site archaeological investigations

Location Plan



Committee Date:	23/04/2020	Application Number:	2020/00610/PA
Accepted:	24/01/2020	Application Type:	High Speed Rail (London to West Midlands) Act 2017
Target Date:	31/03/2020		
Ward:	Nechells		

Land bounded by Curzon Street, Eastside Park & Moor Street Queensway, Birmingham, B4

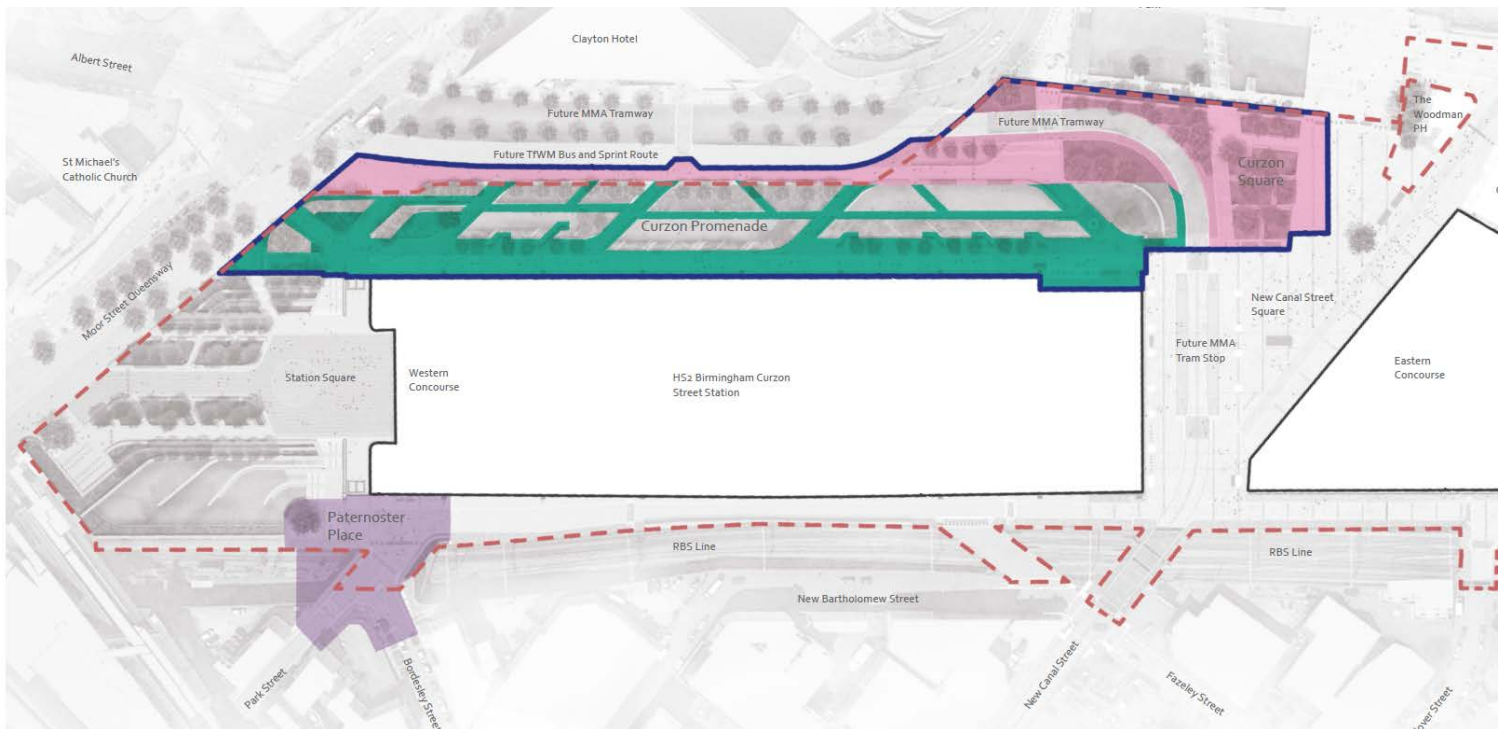
Application under Schedule 17 of the High Speed Rail (London to West Midlands) Act 2017 for new enhanced public realm hard and soft landscaping works

Recommendation

Approve subject to Conditions

1. Background

- 1.1. This application is for the extension of the public realm works beyond the limits of deviation (LOD), but is still within Act limits, to tie the proposed urban realm works into the wider environment and selected uplift in quality in limited areas. The area in pink is the extended zone and the green area is to be uplifted on the following plan (the purple will follow as a separate planning application):



- 1.2. This landscaping is associated with the northern terminus station of Phase 1 of the new High Speed 2 railway connecting Birmingham to London Euston via Birmingham Interchange and Old Oak Common (west London). This application is made via Schedule 17 (S17) of the High Speed Rail (London – West Midlands) Act 2017 ('the Act') rather than the usual planning regime.

- 1.3. The enhanced public realm works will be funded through the Greater Birmingham and Solihull Local Enterprise Partnership's Enterprise Zone (GBSLEP EZ). This programme funds infrastructure improvements to unlock new development and drive economic growth. This will increase business rates, which is then paid to the GBSLEP to repay the cost of the works and fund other priorities in line with their Strategic Economic Plan and Local Industrial Strategy. Following collaborative work between HS2, their contracted design team and the Council to agree the design, an outline business case was approved by the GBSLEP in June 2019 to commit the funding to deliver the project. The next stage will be for HS2 Ltd to appoint the Main Works Station contractor and undertake detailed design to inform the full business case that will secure final approval from the GBSLEP for the funding.
- 1.4. The later phases will ultimately connect Birmingham to London, Manchester and Leeds. This is a major project of national importance that will be progressed over several years, by two further Hybrid Bills through Parliament. Within the city HS2 Phase One will include a new rail line from Water Orton through Castle Vale, Bromford, and Saltley to this new City Centre station at Curzon Street (to be completed 2026). Phase 2A, between the West Midlands and Crewe (to be completed 2027), is currently being progressed through a further Hybrid Bill in Parliament with Royal Assent anticipated shortly once the new parliament have concluded that the bill should resume. A third Hybrid Bill for Phase 2B between Crewe and Manchester and the West Midlands and Leeds is in its development stage and will be deposited in Parliament this year (to be completed 2033).
- 1.5. The Act grants deemed planning consent for the station subject to further approvals being sought for certain matters as set out in S17. The Department for Transport has issued [guidance](#) to local authorities on this matter. For this submission the erection of a building, earthworks and artificial lighting, require consent under the Act. The grounds for consideration are set out later in this report. This detailed design follows extensive pre-application discussions with HS2 including at the Independent Design Panel, the concluding report of which is included within the submission. This design is at a relatively detailed stage and supersedes the reference design that supported the Act's progress through the parliamentary process.
- 1.6. The supporting statements show potential future commercial developments around the station. These are not for consideration as part of this application and would sit outside of the Act (and therefore subject to the regular planning consent regime). Therefore no weight should be given to these in the determination of this application.
- 1.7. [Link to Documents](#)



Enhanced Curzon Square

2. Proposal

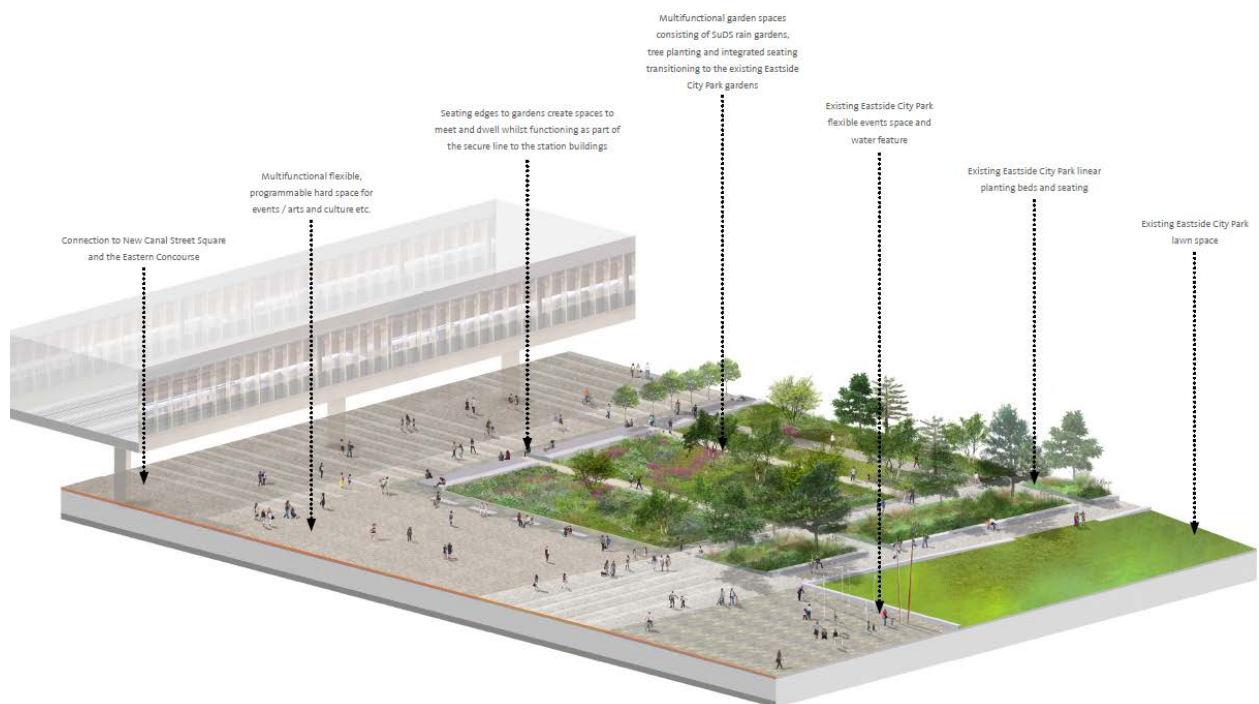
- 2.1. This application concerns the uplift in landscaping quality and scope around the station building at Curzon Square and Curzon promenade only. Two separate accompanying Schedule 17 applications provide the detail of the station building and the 'base condition' public realm. A further Town and Country Planning application for additional public realm including partly bridging over the RBS railway line (known as Paternoster Place) will follow.
- 2.2. The station building is roughly orientated north-east to south west and manages a significant change in levels across the site. The station and surroundings are the first major S17 applications to be submitted in this area and therefore there are no consents in place for the detail of the viaduct structure coming into the Eastside area as set out in the supporting documents. However, detailed discussions have been taking place with the main works contractor and applications will be coming forward in due course.
- 2.3. The overall vision of the urban realm design is to provide a strong identity and sense of place and create a stimulating sense of arrival that is warm; welcoming; legible and provide a sense of relief and calm before continuing on a journey. Connectivity is also a key design driver, with the design planned to draw people to the site with a variety of new public spaces of different scales to provide opportunity for people to gather and events. Sustainable Urban Drainage rain gardens have been incorporated where possible in the proposed soft landscaped areas.
- 2.4. As set out in the table at paragraph 6.4 the considerations for this application are limited to specific matters set out in the Act.
- 2.5. Taking each character area in turn:

2.6. Curzon Square

- 2.7. This area of the enhanced scope sits between the Curzon Square / New Canal Street events area up to the tramway. The Enhanced scope above the design shown in the other application introduces a series of planted wet/dry rain garden spaces, seating areas, footpath connections and tree planting. This is intended to provide visual, sustainable water management and ecological benefits and also provide an improved relationship between the new public realm and the existing Eastside City Park.
- 2.8. The detailed tramway design is subject to separate powers and approval process, however working with TfWM and the city the indicative design shows a green track and pedestrian crossings at appropriate points. Whilst this is not for approval as part of this application it shows how the two designs could be compatible. As part of this process ground levels have also been coordinated between the design teams.

Curzon Promenade

- 2.9. This uplift is primarily focussed upon uplifting the quality of hard materials in the landscaping. This would consist of the uplift in areas of proprietary concrete paving with bespoke concrete on the main promenade route, from pre-cast to natural materials on level resting areas and secondary paths. In addition the enhanced scope includes a new pavement (natural stone) along the bus interchange and metro corridor.



Supporting Information

- 2.10. This application is supported by a comprehensive suite of plans which are submitted for approval. The other supporting information, which comprises of the Design and Access Statement Addendum, a Written Statement, Submission Letter, Indicative Mitigation Letter, and location and application boundaries plans are submitted for information only.

Indicative Mitigation

- 2.11. As set out in the Planning Memorandum and Planning Forum Note 10, this application includes indicative mitigation. Indicative mitigate may relate to ecological, landscape, community and/or operational noise from the railway or roads impacts. Mitigation is provided for comment only at this stage and is not for formal consideration at this stage. A further application (bringing into use) would consider the adequacy of the mitigation proposed, however the indicative mitigation shown in this application is an early chance to comment on the proposals (focusing on the scope, any additional mitigation that could reasonably be required, and comments on the design of the proposed mitigation). Any comments made in relation to the mitigation are without prejudice and there is no obligation to provide comments.
- 2.12. The supporting consultation letter provided within this station submission states that the proposed mitigation for the station and viaduct consists of:
- Extensive landscaping strategy which spans the length of the site that features both native and non-native species as set out in the supporting Design and Access Statement (at 5.3) and plans on the accompanying applications
 - An Environmental Mitigation Zone situated between the existing RBS line and the HS2 railway. This will comprise of native broad-leaf woodland whip and transplants in a wildflower grassland
 - Sustainable drainage as set out in the Design and Access Statement (7.3)

- Biodiversity enhancements as set out in the Design and Access Statement (7.4)

3. Site & Surroundings

- 3.1. In the wider city context the station's location is within the Eastside locality between the education focus (BCU and Aston University campuses) to the north and the creative quarter of Digbeth to the south.
- 3.2. The boundaries and envelope for the station and public realm are within the Limits of Deviation defined in the HS2 Act and the designs set out in this application fully accords with these limits. These limits of deviation (LOD) are illustrated on a number of the application drawings.
- 3.3. The application boundary of the enhanced public realm is irregular in shape being a maximum of 356m long and 67m wide. In term of levels, West of New Canal Street the site rises significantly in level to Moor Street with a 15m difference in level between the former Curzon Street Station and Moor Street. Beyond New Canal Street to the east the site is relatively level. Levels also generally fall from Park Street towards the new station building.
- 3.4. The new station would sit to the east of Moor Street, south of the Clayton Hotel and Eastside Park, bridging over New Canal Street immediately to the south of the Grade I listed Curzon Station terminating within the large cleared area of land to the south of Curzon Street. The Rugby-Birmingham-Stafford (RBS) line runs to the south of the new station, partly on viaduct and partly in cutting. The site incorporates part of Fazeley Street which will be stopped up to make way for the station. The Digbeth Branch Canal forms the eastern boundary.
- 3.5. Much of the western part of the wider station and public realm site previously formed burial grounds. An extensive programme of exhumations and recording work has been undertaken. In addition the archaeological investigations have explored the remains of the Curzon Street Station yard, the Freeman Street Baptist Meeting House and burial ground and the Grand Junction Railway Station.
- 3.6. In order to facilitate these works much of the site that is not part of Eastside Park, the Woodman and Eagle and Tun Pubs or public highway is currently cleared and bounded by hoardings. A separate project to secure the refurbishment and re-use of the city owned Grade I listed former Curzon Station building in the short to medium term in conjunction with HS2 is currently underway. Café and exhibition space is proposed at ground floor level with offices above.
- 3.7. Heritage assets in and around the site include the Church of St. Michael (Grade II); Woodman Pub (Grade II); Old Curzon Station (Grade I); Gun Barrel Proof House (Grade II*); Old Moor Street Station (Grade II); former Christopher Wray (Grade II); and Railway Bridge over Digbeth Branch Canal (Grade II). The Fox and Grapes public house has been demolished in 2018 and has since been de-listed. In addition a locally listed (Grade B) former public urinal on Banbury Street appears to no longer be in situ. The Eagle and Tun public house (locally listed grade B) would be demolished as part of the proposals. The Digbeth, Deritend and Bordesley High Street and Warwick Bar Conservation Areas are situated to the south of the RBS railway line. Other heritage assets impacted would be the remnants of the old station building fronting Curzon Street and remaining buried archaeology.
- 3.8. [Site Location](#)

4. Planning History

- 4.1. A Compulsory Purchase Order was confirmed by the Secretary of State in relation to land associated with the delivery of the removal of Masshouse Circus as part of the removal of the city centre's 'concrete collar' with the highway works undertaken in 2002. Also in 2002 a planning application for a much wider area than the current application site was submitted for a comprehensive scheme including offices, residential, food store, leisure, hotel and education buildings. Land ownership was subsequently consolidated by a further Compulsory Purchase Order granted in 2004.
- 4.2. This was followed by a series of consents across this site for a variety of uses including a new library of Birmingham, University Campus, residential, office and retail development.
- 4.3. The HS2 project was launched in November 2013 and following the parliamentary process the Hybrid Bill secured Royal Assent in February 2017. Through the use of compulsory purchase powers HS2 have since acquired much of the land where the station and public realm will be sited.

5. Consultation/PP Responses

Appropriate Bodies

- 5.1. Whilst the Act only requires consultation with three consultees ('appropriate bodies'), namely Natural England; the Environment Agency; and Historic Buildings and Monuments Commission for England (known as Historic England) a much wider consultation exercise has been undertaken.
- 5.2. Environment Agency – Raise no objection and comment that they welcome the enhanced urban realm works which extend the scope of the station base urban realm of hard and soft landscaping proposals which deliver the aspiration of the BCC HS2 Curzon Masterplan for Growth.
- 5.3. Historic England – Provide overarching comments on the three submissions and comment that the major elements of the scheme are welcome.
- 5.4. They consider that the design of the station is traditional in the sense that it offers a large and elegant train shed covering about half of the length of the trains. Noting that externally the roof structure is expressed by fins (or buttresses) which bring the structure to ground. They note that the loss of the Eagle and Tun is regrettable but it was never a realistic option to keep in terms of the requirements of the station construction and maintenance. The integration of the busses (in one of the busiest locations in the city, if not the country) has been taken into account in the design of the landscape. They note that the single north/south connection through the station to Digbeth will be widened and closed to vehicular traffic. They add that the connection to Paternoster Square is dependent upon the extent of the bridging of the Westcoast Mainline and that both routes need to be as attractive as possible. However a number of issues that they consider still need to be addressed are highlighted as follows:
 - They remain disappointed at the level of animation on the north elevation. They recognise the considerable change in level and practical constraints of the manner in which the whole structure is dug into the ground but would still prefer to see the station more actively addressing the landscape in that direction to ensure that it is a desirable place to be.

- In respect of the setting of the Grade I (existing) Curzon Station they consider this to be disappointing in that whilst the screen wall being brought out to mark the street edge is a good idea they consider that it needs to be refined to produce a more elegant solution. They state that they do not wish to be prescriptive as to style, but it needs to reflect the strength of the Curzon building.
- Marking the location of platforms in the landscaping is welcome although they consider that this could go further (into the car park area). They welcome the marking of the location of the roundhouse (engine turning facility) in the landscaping which they now understand to be the first roundhouse in the world.
- Finally, they note that the area to the rear of the Grade I building is not intended to be part of the permanent HS2 scheme and is likely to be developed when the land is released after the station. Whilst beyond the bounds of this submission the integration of this building into future development needs to be considered. As the nature of this future development has not been determined they consider the demolition of the fragments of wall of the Grand Junction Railway at the eastern end of the site premature. They consider this to be of considerable significance dating from the 1830's with their assessment of the significance of the principal building noting that "the base of the screen wall of the GJR station...reflects the work of Liverpool's most accomplished 19th century architects, and draws upon the triumphal arches of ancient Rome to form a symbolic gateway to the future".

5.5. Natural England – No objection. Consider that the proposed development will not have significant adverse impact on statutorily protected sites or landscapes.

Other non-statutory consultees

5.6. Transportation Development – Have provided a consolidated response for the three current applications. They note four areas of concern regarding highway impact which have been regularly discussed through the design evolution of the project.

1. The servicing access to Fazeley Street/New Bartholomew Street/New Canal Street area does not provide suitable details of how vehicles access the site, and where they may need to wait for access to this secure area, or be made to leave the area if a delivery or servicing activity is not permitted. This is a complicated arrangement with the potential of vehicles not being allowed to enter the site because of insufficient space or because they have no 'booking' and have no area to turn away from the site without reversing back into the complicated signalized junction which is designed to accommodate pedestrians, cyclists, Metro and general traffic.
2. The turning head and servicing access to the Woodman pub and old Curzon Street Station need further design resolution to suitably accommodate the turning requirements of vehicles in a space that is also public realm where pedestrians and vehicles will mix. The area also needs provide for taxi, coach and bus manoeuvres as these regularly attend events at Millennium Point and park on Curzon Street.
3. The current layout is not commodious for cyclists and pedestrians with potential safety issues. They appreciate that the cycle route is within their site, however, there are currently cycle routes through this area and the proposals need to address how they will maintain accessibility. The service road will provide the only viable route for cyclists that does not involve dismounting and if it is also to

provide a pedestrian route then it should be safe, legible and accessible. This is also relevant for the points noted above, especially in relation to how cyclists negotiate the Fazeley Street/Metro junction.

4. The plans show pedestrian crossing facilities on Curzon Street and junction alterations and further detailed work is needed to refine this draft design to ensure suitable pedestrian facilities are provided along with maintaining the highway network capacity.
- 5.7. They also note that the proposal requires stopping-up of the public highway in several locations. Part of this is noted on the City records along Fazeley Street, but additional stopping-up is required on Andover Street and other small areas as a result of the detailed design now submitted for the development. They question whether this covered in other powers of the HS2 consent or need to be referenced as part of these proposals.
- 5.8. There has been additional dialogue between HS2 and Transportation Development to agree these concerns are mitigated with a recommended condition on servicing arrangements when these are definitively known, and a series of additional design responses which will formally be provided in future schedule 4 and schedule 17 submissions.
- 5.9. Regulatory Services – No Objection. They note that they are precluded from commenting on air, land and noise issues as there is provision under other legislation as well as the HS2 CoCP (Code of Construction Practice) and HS2 Local Environmental Management Plans (LEMPs). HS2 are required to engage with local authorities to develop the Birmingham LEMP. HS2 have informed me that the Birmingham 2017 LMEP will be updated to reflect individual and local changes. If problems regarding Air Quality occur in the future (including issues as a result of construction) BCC can require the Birmingham LEMP to be revised accordingly.
- 5.10. HS2 are liaising with Regulatory Services regarding Section 61 submissions to mitigate noise from construction. In relation to the operational phase feel that the noise should be sufficiently mitigated based on the information provided.
- 5.11. HS2 have also been engaging with the city in relation to land contamination
- 5.12. Lead Local Flood Authority – Notes that as this project falls within the HS2 act of parliament, it will comply with the agreed technical standards rather than be subject to the requirements of the adopted Birmingham Development Plan 2017. They strongly support the provision of numerous SuDS features including rainwater garden and swales in addition to underground attenuation which supports our objective to achieve the key principles of SuDS; quantity control, quality control and biodiversity and amenity value within an iconic development
- 5.13. Highways England – Although not relevant to this application, on the station application have no comment to make on this application on the basis that the proposals would not alter the volume of traffic on the Strategic Road Network above the levels shown within the Environmental Statement
- 5.14. Birmingham Civic Society – Have provided combined comments for the accompanying applications and recognise the scale, complexity and technical constraints and congratulate the design team for developing to this point. They consider the landscaping to be thoughtfully design and high quality and note the positive impact this can have on visitors to the city, acknowledging the technical, resilience against terrorist attack, day to day security and maintenance requirements. In respect of heritage assets, they note that this part of the city has

historically been dominated by rail infrastructure, and that the importance of HS2 as a new 'layer' of infrastructure of national importance serving the city justifies these heritage impacts, which are relatively minimal. They add that the loss of the Eagle and Tun public house is sad but acknowledge this as one of many such buildings of such significance that will be impacted along the train line in less visible locations. In respect of security they consider that the Secured by Design approach, working with the police, should be followed to ensure that any current anti-social behaviour does not pose a risk to users of the station. Finally they consider that the ambition to limit car use around the station is to be applauded, but expect that the surrounding area will become highly congested at peak times and subject to opportunistic parking and drop offs around the officially imposed strategy but conclude that this is unavoidable without providing limitless parking spaces within the vicinity.

- 5.15. Canal and Rivers Trust – Have comments on the accompanying applications and consider that the Council should grant approval for the application subject to the following conditions/modifications:
 - Amendments to the lighting scheme in the canal side area
 - Modification of the canalside surfacing materials
 - Modification of the canalside planting proposals
 - Additional details of the public realm works' interface with the canal
- 5.16. Network Rail – Have no comments to make
- 5.17. Severn Trent – No objections subject to the inclusion of a condition requiring the provision of foul and surface water drainage flow details.
- 5.18. West Midlands Fire Service – Raise no objection and confirm their access and firefighting equipment requirements.
- 5.19. British Transport Police (BTP) – The BTP Designing Out Crime Unit are already engaged with HS2 regarding the designs of all proposed stations, including Curzon Street. They request that consultation with HS2 continues following the determination of this application.
- 5.20. West Midlands Police – Provide a single response to the three applications. They note that the proposed development would have the potential to increase crime and anti-social behaviour in the area and cite anti-social behaviour issues that have occurred in the nearby Eastside City Park. They add that lighting of the area should be consistent and note that there are pillars and recesses which could allow criminal activities to go unseen. They add that a comprehensive CCTV system should be installed. Detailed comments on the robustness of street furniture, glazing specification, alarm systems and security patrols of the station/public realm have been provided.
- 5.21. Cadent (gas) – On the accompanying application note that they have apparatus in the vicinity and require the developer to contact them before carrying out any works.
- 5.22. Whilst the Act does not require any public consultation, in accordance with the paper brought before your committee on the 22nd December 2016 a comprehensive consultation exercise such as undertaken on a major planning application. Site and Press Notices have been posted and local occupiers and major landowners have been notified.
- 5.23. The accompanying Design and Access Statement (p.53) sets out the engagement undertaken by HS2 in relation to the station. This includes the activity of the independent Design Review Panel, targeted stakeholder discussions and public events.

6. Policy and Legislative Context

Policy

- 6.1. Birmingham Development Plan 2017; Birmingham Unitary Development Plan 2005 (saved policies); Car Parking Guidelines SPD; Places for All (2001); Warwick Bar Conservation Area Character Appraisal and Supplementary Planning Policies; Digbeth, Deritend and Bordesley High Streets Conservation Area; Access for People with Disabilities SPD; Car Parking Guidelines SPD; Lighting Places; Regeneration Through Conservation SPG; the Shopfronts Design Guide (SPG); National Planning Policy Framework (as amended).
- 6.2. Also the non-statutory Birmingham Curzon HS2: Masterplan for Growth.
- 6.3. [Local Policy](#)

Legislation

- 6.4. The primary legislation is the [High Speed Rail \(London to West-Midlands\) Act 2017](#), which dis-applies and/or amends the typical legislative planning regime. Schedule 17 of the Act sets out the following considerations in respect of the works proposed for Qualifying Authorities such as the city. In addition, in February 2017 the Department for Transport issued Schedule 17 [Statutory Guidance](#) to all Qualifying Authorities.

Relevant part of schedule 17 and specific works being applied for	Possible Grounds for refusal of approval
<p>Structures (Sch17 part 1 para 2)</p> <p><i>Bollards, rain garden notched weirs, and planters.</i></p>	<p>That the design or external appearance of the building works ought to be modified—</p> <p>(i) to preserve the local environment or local amenity,</p> <p>(ii) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(iii) to preserve a site of archaeological or historic interest or nature conservation value,</p> <p>and is reasonably capable of being so modified, or</p> <p>(b) the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
<p>Earthworks Elements (Sch17 part 1 para 3 (2b))</p> <p><i>Earthworks.</i></p>	<p>That the design or external appearance of the works ought to, and could reasonably, be modified—</p> <p>(a) to preserve the local environment or local amenity,</p> <p>(b) to prevent or reduce prejudicial effects on road safety or on the free flow of traffic in the local area, or</p> <p>(c) to preserve a site of archaeological or historic interest or nature conservation value.</p> <p>If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
<p>Fences or walls (Sch17 part 1 para 3 (2e))</p> <p><i>Walls.</i></p>	<p>That the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>
<p>Artificial Lighting Equipment (Sch17 part 1 para 3 (2f))</p> <p><i>Lighting columns.</i></p>	<p>That the design of the equipment, with respect to the emission of light, ought to, and could reasonably, be modified to preserve the local environment or local amenity.</p> <p>If the development does not form part of a scheduled work, that the development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits.</p>

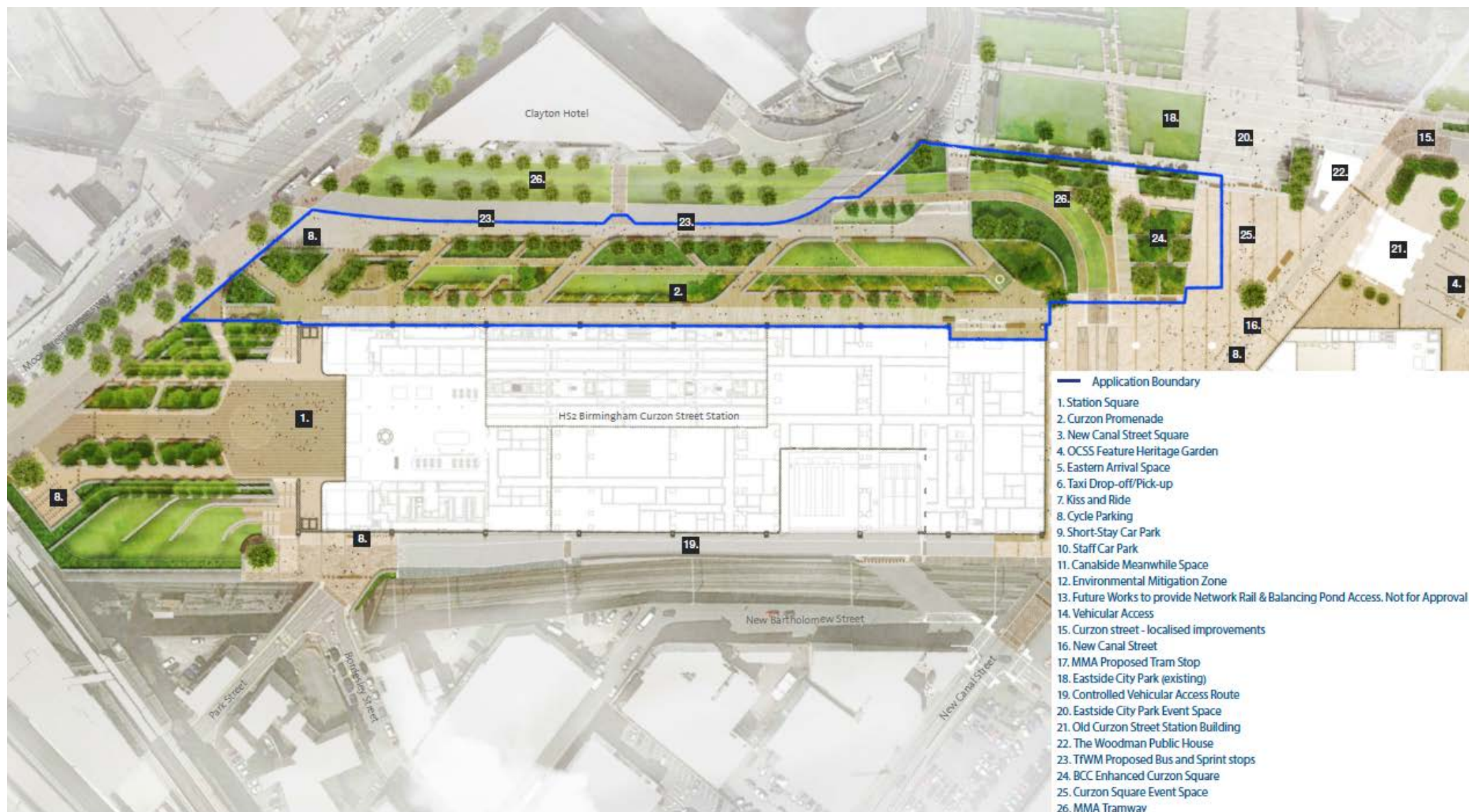
- 6.5. The proposed hard and soft landscaping and planting details also for agreement as details of site restoration in accordance with S17 Part 1 para 12 of the Act. References to conditions in respect of site restoration matters are technically items that are 'reserve[d] particulars for subsequent agreement' in accordance with the Act.
- 6.6. In addition to Schedule 17 the Act places other controls on development, some in the form of mandatory requirements other in the form of further submissions. Further highways consents are required pursuant to Schedules 4 and 33, drainage is also controlled through Schedule 33 and noise is controlled through Section 61 of the

Control of Pollutions Act 1974. Finally, consent would be required through S17 for the proposed lorry routes to construct the station.

- 6.7. There is a [Class Approval](#) in place that controls ancillary development whilst the works are being constructed. This includes handling of soil/top soil; storage sites for construction materials; screening of works; temporary artificial lighting; dust suppression and road mud control measures. The Class Approval sets out the detailed requirements in relation to each of these matters, imposing conditions where relevant. These measures are enforceable through the usual planning enforcement regime.
- 6.8. In addition there are the [Environmental Minimum Requirements](#) (EMRs). This suite of documents set out overarching environmental and sustainability commitments. The EMRs consist of the following:
1. Code of Construction Practice (CoCP) – contains detailed control measures and standards to be implemented throughout Phase 1 of HS2.
 2. Planning Memorandum – Sets out the requirement of Qualifying Authorities (such as BCC) including participating in the national Planning Forum, and the expeditious handling of requests for approval and appropriate resourcing. It also places requirements on the Nominated Undertaker (i.e. HS2) to engage in pre-application discussions, assist with resource planning and provide indicative mitigation where necessary.
 3. Heritage Memorandum – provides the overarching approach to heritage matters including the establishment of a heritage sub-group of the Planning Forum. The Memorandum details how the investigation, recording and mitigation of impact to heritage assets will be undertaken. The Memorandum also provides an explanation that the Listed Building and Conservation Areas Act is dis-applied for the list of buildings set out in Table 1 of Schedule 18 of the Act. It also introduces the practice of securing legal agreements with local authorities and Historic England in cases where Listed Building Consent would ordinarily be required to control alterations/demolition/building recording activity. For BCC this consists of the methodology for the demolition of the Fox and Grapes (now undertaken) and recording of vibration of listed buildings adjacent to the new railway such as the listed viaduct which the new railway will cross over to the east of the Middleway and Curzon Station. The Memorandum also sets out the Government's approach to human remains and burial grounds.
 4. Environmental Memorandum – Sets out the overarching requirements on various environmental impacts of the scheme including nature conservation; ecology; water resources and flood risk; geological features; recreation and amenity impacts; landscape and visual; public open space; soils; agriculture and forestry; and excavated material. It also sets out the approach for key environmentally sensitive worksites along the route, although none of these are in Birmingham.
- 6.9. The EMRs also include the [Undertakings and Assurances](#) that HS2 have committed to. These set out a number of detailed requirements that HS2 have to meet, with a number given to the city about how the station will be brought forward.
- 6.10. There is an information paper (E16) that details how landscaped areas will be maintained.
- 6.11. The [HS2 Context Report](#) for Birmingham City sets out the broad legislative and approach to implementing HS2. It goes on to set out what works HS2 will be

undertaken within the city (both permanent and temporary), landscape and restoration proposals, an early programme of Schedule 17 requests and a suite of plans to illustrate the above.

- 6.12. In terms of managing the impact of construction traffic, in addition to the S17 approval of lorry routes, the Route wide Traffic Management Plan (RTMP) describes the principle and objectives for the management of transport, highways and traffic during the delivery of the works. Local Traffic Management Plans (LTMPs) will be issued along the route detailing the range of local controls and other significant works programmes for highways. There is a local Traffic Liaison Group where LTMPs and site specific traffic management is discussed.
- 6.13. A series of [Planning Forum Notes](#) (PFN) have been agreed at the route wide Phase 1 Planning Forum and provide guidance on a wide range of subjects. These cover detailed procedural matters such as the content of submissions, model conditions, dealing with lorry routes, and indicative mitigation. There are currently 14 confirmed PFNs.



Extract of masterplan showing the enhanced area

7. Planning Considerations

Key Local Policy Context

- 7.1. The BDP recognises the overall benefits of HS2 helping to capitalise on the City's location at the heart of the UK's transportation network. GA1.2 states that any proposals for a HS2 station will need to be integrated into the area creating a world class arrival experience with enhanced connectivity to surrounding areas including Digbeth and the City Centre Core. Policy TP41 offers general support to the improvement of the city's rail network and TP39 sets out the requirement for the provision of safe and pleasant walking environments throughout the city. TP40 states the cycling will be encouraged through a programme of improvement to cycling infrastructure including routes and 'trip end' facilities, including railway stations.
- 7.2. TP12 sets out the city's approach to the historic environment, with great weight attached to the conservation of the city's heritage assets.
- 7.3. The non-statutory Birmingham Curzon HS2: Masterplan for Growth (July 2015) acknowledges the opportunity presented by HS2 and set the city's vision for the station and maximising the wider regenerative impacts of the station. Key themes set out in the document relate to connectivity, arrival experience, high quality public realm and world class architecture. Broad design visions for the wider Digbeth and Eastside areas are also set out, showing how the city could capitalise on the direct benefits of the train station.
- 7.4. As set out in paragraph 6.4, Schedule 17 includes a limited range of considerations and builds upon other controls in the Act. Each is considered in turn below.

Structures

Design or External Appearance

I) Local Environment / Amenity

Independent Design Review Panel

- 7.5. As a result of an Assurance with HS2 secured as part of the parliamentary process there is an independent Design Review Panel specifically for the station. This is distinct from HS2's own independent panel which assesses all other Key Design Elements along the route (KDEs) and involved officers. The panel is not a decision-making body but acts as a critical friend to the project. As required, the panel's final report on the station design is included within this application and set out in full in the Design and Access Statement. Detailed comments on the wider designs are summarised in the accompanying reports, on the enhances scheme the panel stated that they were pleased that it would be delivered at the same time as the rest of the public realm and that high quality materials will be used seamlessly throughout.

City Design

- 7.6. City Design Officers have been proactively engaged in pre-application discussions regarding the design of the public realm in productive and collaborative meetings. The design information submitted in support of this application is convincing, pointing to a well thought out proposal. The detailed drawings in particular demonstrate a scheme which could be constructed and delivered.

- 7.7. The realisation of the proposals however will be largely dependent on the quality of further detailed design, implementation and workmanship. Whilst the City Designers are hopeful that further liaison will take place with HS2 and their contractors, it is necessary to seek additional and more detailed information through planning conditions in order to form a basis for these discussions and to secure the quality which is expected.
- 7.8. Extensive detailed comments have been provided in relation to the public realm design and conditions have been recommended, including a further recommended uplift to areas of concrete paving.
- 7.9. The layout, nature and quality of the enhanced public realm will help to capture the wider regenerative benefits of HS2 as envisaged in the Curzon Masterplan; acting as a catalyst for further investment both in the Digbeth/Eastside, Birmingham, and the wider West Midlands region. The design, especially when considered as a whole with the station, is considered to be of a world class standard and is supported subject to a number of conditions to safeguard the quality of the finer detail of the public realm. The enhanced areas will not only uplift the quality of parts of the base scheme but also extend the design to better tie into the wider city in a more successful way.

II) Preventing and/or reducing prejudicial effects on road safety or on the free flow of traffic in the local area

- 7.10. The enhanced scope public realm concerns paved areas only, providing improved facilities for pedestrians and cyclists using the surrounding urban realm. The extension of the proposed high-quality materials to the bus interchange will help provide a more pleasant environment for bus passengers when making these multimodal journeys.
- 7.11. The enhanced scope provides an improved pedestrian environment along Curzon Promenade with higher quality resting spots and better-quality paving through the various routes. The uplift around Curzon Square, with increased planting would provide a significantly improved environment for users of the pedestrian environment.
- 7.12. In highway terms there are a few key differences between the reference design in the Act and the current detailed design, namely:
- The removal of a new 'loop' of highway around the Woodman Public House
 - The provision of an 'in and out' single point of access to the station car park from Curzon Street
 - Coordination with the Midland Metro Alliance regarding the design of New Canal Street
- 7.13. In terms of the matters for consideration under Schedule 17 the key elements are the nature and arrangement of the vehicular access (including taxis and cycling) and the servicing of the station and their interaction with the provision for pedestrians.
- 7.14. The enhanced public realm design creates a further improved pedestrian environment compared to base design whilst maintaining cycling routes through the site.
- 7.15. In terms of pedestrians, gradients remain unchanged in comparison to the base condition and step-free movement is possible to all parts the wider public realm.

Transportation Development

- 7.16. Have concerns regarding the operation of the station. Dealing with each point in turn:

Fazeley Street / Delivery / Servicing

- 7.17. Transportation Development raises concern about how the intended access to the service yard would operate, this issue is discussed on the accompanying applications and is not relevant for the enhanced scope application.

Curzon Street and the Woodman Public House

- 7.18. Transportation Development have safety concerns around the distance of this turning area from the Woodman Public House and the principle of pedestrians and vehicles sharing the same space.
- 7.19. In terms of servicing the pub, HS2 have committed to amending the public realm design to allow servicing next to the building (rather than, unrealistically, expecting deliveries to be carted circa 70m from the turning area to the pub). A condition has been recommended on this application to secure the detail of this.
- 7.20. Considering the safety of the turning area when mixing vehicles and pedestrians, this would have very limited use. The historic Curzon Station would have limited requirements and benefits from its own car park area. The only other site to access this end of Curzon Street would be Millennium Point which has a service access that crosses part of the park then runs to the west of the science garden to a yard behind the building. The vehicle access arrangements for this service yard would remain largely unchanged (i.e. they would not need to use the turning area) except that it could now only be accessed via Curzon Street rather than New Canal Street.
- 7.21. Therefore, the turning area would solely be for vehicles who have accessed Curzon Street beyond the station and need to turn around. Whilst technically the area must provide sufficient space for larger vehicles (to avoid them getting trapped) this would not form a service area. The frequency of use of this should be low subject to securing adequate controls on the use of Curzon Street beyond the station (such as preventing access except for servicing access through an appropriate Traffic Regulation Order). This issue can be controlled via the Schedule 4 highway approval process and an informative telling HS2 that this is required is recommended.

Cycle and Pedestrian Connectivity

- 7.22. In respect of cycle connectivity adequate connections are provided both through the wider public realm and through the area of the station. The detail of the principal connections and routes is discussed in the accompanying applications, with the principal change for the enhanced scope being better quality pedestrian routes provided with improved hard and soft landscaping.

Curzon Street crossing / junction layout

- 7.23. This issue is related to the base urban realm design and is discussed the accompanying report.

Highway Impact – Free Flow

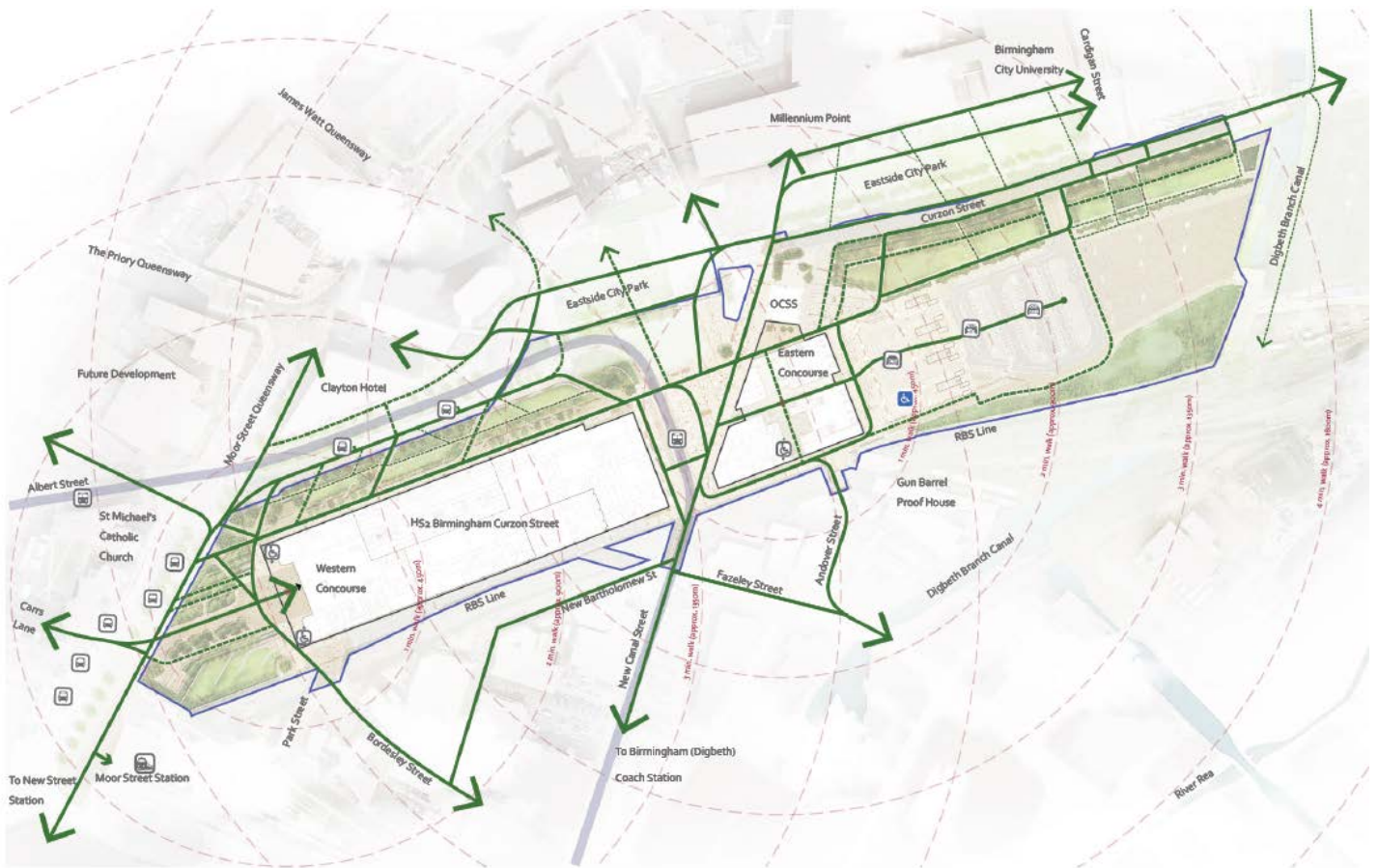
- 7.24. Given the scope of the enhanced urban realm proposals there are no material highway free flow implications.

Car Parking

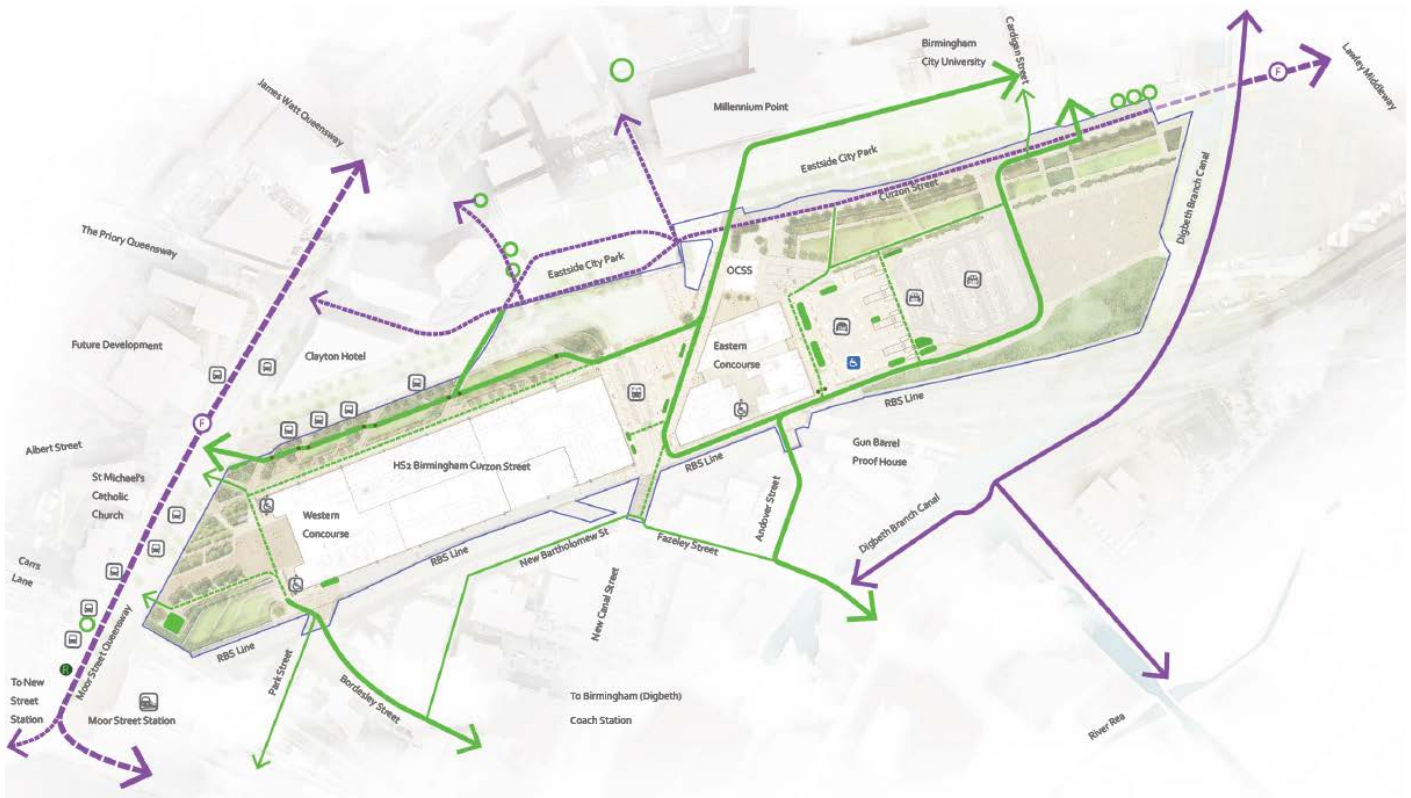
- 7.25. Again, given the scope of this application there are no material car parking implications.

Conclusions on Highway Impacts

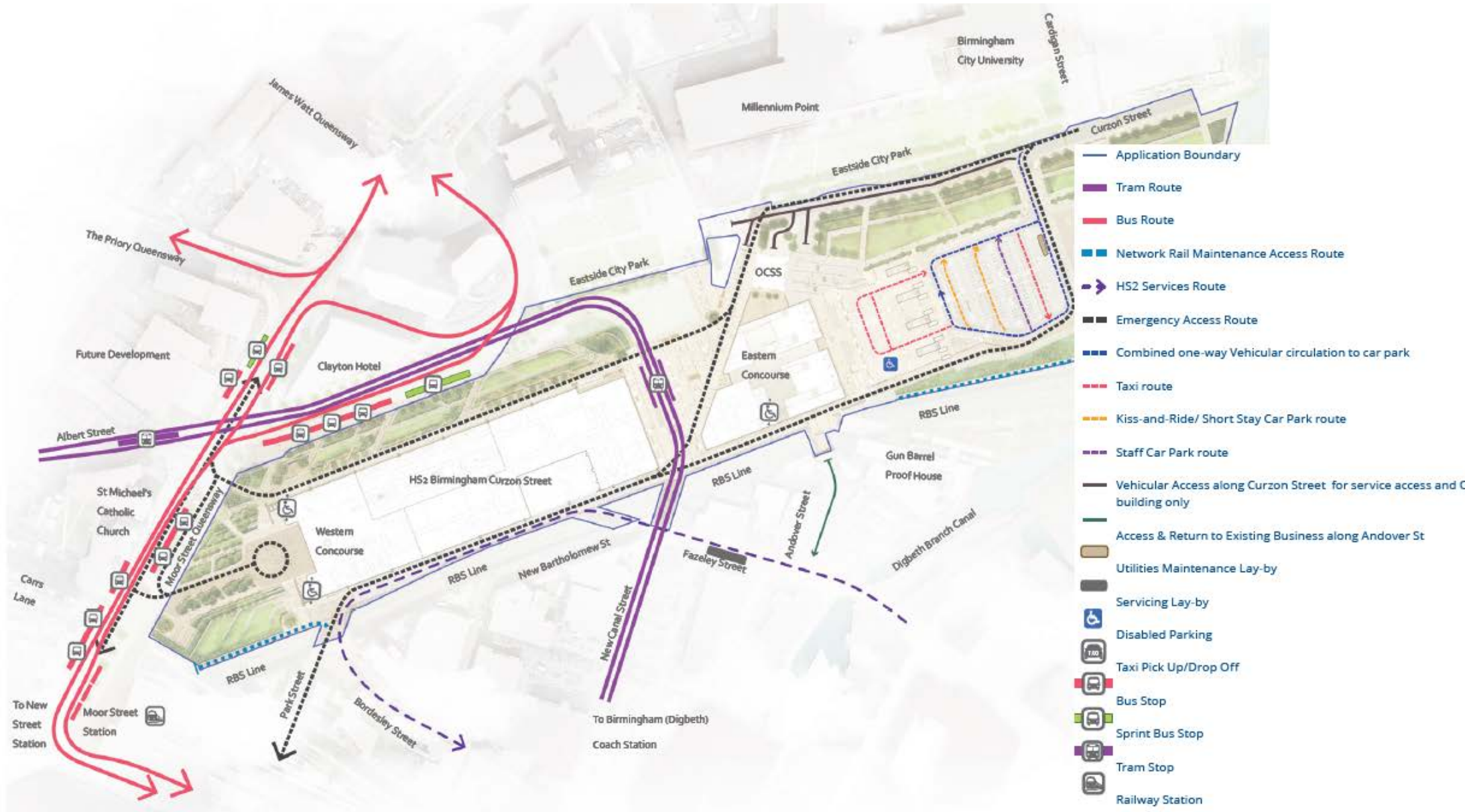
- 7.26. The proposed wider station urban realm design is in accordance with the Act and demonstrates a progression from the reference design. Concerns have been raised by Transportation Development however these can be overcome by condition or other controls through the Act, which will be referenced by an informative attached to the consent.
- 7.27. Therefore, consent should not be withheld on highway safety / free flow grounds subject to the recommended conditions and further controls available through the Act, including Schedule 4 and the Bringing into Use process.



Pedestrian movement around the wider public realm



Cyclist movements around the wider public realm



Vehicular Movements

III) Archaeological and historic interest

- 7.28. As set out above, Historic England generally welcome the wider applications but raise a number of concerns. These issues are not materially impacted upon by the enhanced scope and are considered in detail on the accompanying applications.

Archaeology

- 7.29. As set out in the HS2 Heritage Memorandum, a route-wise written scheme of investigation: Historic Environment Research and Delivery Strategy (known as the GWSI: HERDS). The HERDS set out the approach to archaeological investigation including the detail of how the works are undertaken, stakeholder engagement, and the archaeological potential along the route on a period-by-period basis.
- 7.30. More generally, the Heritage Memorandum sets out the approach to considering heritage in the design and implementation of the works, and states that the sympathetic design of new structures and alterations and the careful integration of heritage assets into construction works will be of particular importance. It adds that the desirability of reducing harm to the setting of nearby heritage assets will be a key consideration of the design process.
- 7.31. Works may include the protection and preservation of assets in situ, investigation and recording in advance of enabling and construction works, and/or the implementation of investigation and recording during enabling and construction works.
- 7.32. The supporting Written Statement notes that the management of archaeology during construction is not a matter for approval under Schedule 17.
- 7.33. Notwithstanding this, there have been extensive investigations at the wider Curzon site. This has included the exhumation of remains at the former Park Street and Freeman Street burial grounds together with extensive excavations of the former railway platforms, sidings etc to the rear of the original Curzon Street Station. The need for and scope of any further archaeological investigation is presently under consideration.
- 7.34. As part of the accompanying applications archaeological features such as the engine turn facility and the remnants of the boundary wall along Curzon Street are to be represented in the proposed landscape design.

Other Heritage Assets

Eagle and Tun

- 7.35. The impact upon the Eagle and Tun is considered in the accompanying application.

Fox and Grapes Public House

- 7.36. It should be noted that the Act consented the total demolition of the extensively fire damaged Fox and Grapes public House (Grade II) subject to a Heritage Agreement between HS2, Historic England and the city. The agreement was completed in November 2017 and the building was demolished in September 2018.

Setting of Assets

- 7.37. The proposal will impact upon the setting of the original Hardwick listed Curzon Street Station (Grade I), the Woodman Public House (Grade II) and Moor Street Station (Grade II). In addition, there would be numerous other listed and locally listed structures within the vicinity that would have their setting altered as a consequence of the proposals.
- 7.38. The proposed public realm sits within Limits of Deviation that sets the maximum extent of these earthworks/proposals – this is defined by the Act.
- 7.39. Given its Grade I designation combined with its proximity to the public realm, the historic Curzon Street Station will have its setting most fundamentally changed. The building sits almost in isolation and is a dominant feature in the townscape. Current ground conditions in the immediate environment include New Canal Street, which places an engineered highway in close proximity to its principal elevation. To the rear is the large cleared site currently undergoing archaeological works but previously occupied by a large distribution warehouse and surrounding service yard. Therefore, the setting of this building has fundamentally changed since its construction, with a combination of railway yards and industrial buildings providing a very poor setting in the past. Efforts to maximise the benefits of the proposed public realm have been secured through the detailed design process, including the use of high quality natural materials and the more civic design to the spaces around the building. This greatly improves the setting of this important heritage asset. The enhanced scope would provide further benefit.



The previous setting of Curzon Station

- 7.40. In relation to the Woodman Public House, the overall environmental enhancements offered by the enhanced public realm will offer an overall positive benefit to the setting of this public house over and above the positive impact of the base design.
- 7.41. Considering the setting of St. Michael's Catholic Church, this building sits within an emerging urban context, with the recent consent for Martineau Galleries further changing its immediate environs. The enhanced urban realm has no material impact upon the setting of this asset.

- 7.42. In terms of Moor Street, again the creation of Station Square will help improve this setting, with the site previously been occupied by (partly unsurfaced) open car parking facilities with a large advertisement hoarding in close proximity. The enhanced scope has no material impact upon the setting of this asset.
- 7.43. In respect of the impacts on the listed buildings and Conservation Areas to the south, the station is considered in the accompanying application; however, the enhanced public realm offers a very slight improvement in setting.
- 7.44. Finally, in relation to the railway viaduct to the east, this are some distance from the proposed enhanced public realm and there would be little if any impact. In terms of the listed canal bridge there is no material impact from the enhanced urban realm.
- 7.45. The City Design Manager has not offered any specific heritage comments for the enhanced scope public realm.
- 7.46. In conclusion on heritage matters, the proposed design fully mitigates the potential impacts (in the context of the Act) and no further changes are recommended in this regard. The enhancement offers marginal heritage benefit when considered against the base design.

Nature Conservation Value

- 7.47. The City's Ecologist comments that the enhanced scope adds significantly to Curzon Square and notes that any green track to be delivered as part of the tramway will need careful consideration (either Sedum or a mix of low growing / prostrate flowering species is preferred).
 - 7.48. Natural England raises no objection and confirms that no ecologically significant sites would be impacted by the station proposals.
 - 7.49. The city's Arboriculturalist notes that a recently planted tree is proposed to be removed to connect the enhanced public realm with Eastside Park with a walkway. Considering the extent of new planting in the public realm, the integration of the landscapes and the age of the tree to be removed the individual impact is not significant. A London Plane has been safely retained so far by being away from the major activity in the site. The retained trees will need protection during the works and so a condition will be required.
 - 7.50. The enhanced proposals would offer a significant potential to uplift in the nature conservation value of the site beyond the base condition. Significant planting and other specific mitigation measures proposed to maximise the ecological benefits of the proposals would be secured, particularly the uplift to Curzon Square.
- B) The development ought to, and could reasonably, be carried out elsewhere within the development's permitted limits
- 7.51. The limits of the public realm envelope are explicitly defined within the Act. The current scheme is fully compliant with these limits.
 - 7.52. Therefore, in respect of the limits of deviation set out in the Act, the station is in the best location and takes every opportunity to secure the best design, connectivity and heritage impact outcomes possible, with the enhanced urban realm offering further benefits.

Artificial Lighting

- 7.53. The lighting of the public realm to create a safe welcoming environment as set out on the supporting plans and documents is supported. The detail of which would be the subject of a condition.

Earthwork Elements

- 7.54. For this wider suite of applications the earthworks largely consist of the re-profiling of the ground levels to facilitate the creation of a functional railway station that successfully interfaces with the spaces around it. There are no archaeological or highway impacts over those considered above in relation to 'structures'.
- 7.55. The proposed levels and gradients created across the enhanced scope public realm work are consistent with the base scheme and have been coordinated with the city and TfWM in relation to the tramway.
- 7.56. Overall topography and detailed design work together to create visual interest and successful high quality spaces that will be of significant public benefit providing substantial public spaces with varying characters around the station.
- 7.57. Therefore, no objection is raised to the design of the proposed earthworks.

Fences and Walls

- 7.58. The walls proposed as part of the enhanced public realm works are in the appropriate locations (containing landscaped areas). Therefore, no objections are raised to the location of the proposed walls within the design.

Other Matters

Indicative Mitigation

- 7.59. As set out in the Planning Memorandum, the wider proposals include the proposed mitigation measures in respect of the station works. These measures are not for detailed consideration at this stage as a further submission would need to be made once implemented ('bringing into use'). However, this is an opportunity for early sight of and comment on the measures proposed.
- 7.60. The specific mitigation measure proposed as part of these works is principally the Environmental Mitigation Zone (EMZ). This is a linear shaped space between the existing RBS railway line and the HS2 railway. It is proposed to plant the area with native broad-leaf woodland whip and transplants in a wildflower grassland retaining maintenance access.
- 7.61. Further details regarding the overall mitigation include the specification of the wider hard and soft landscaping across the wider station development; a sustainable drainage scheme including urban rain gardens and conveyance swales; and a commitment to biodiversity in the wider scheme to include the landscape planting strategy, log piles within the EMZ, insect boxes (minimum of 30 insect houses), bird boxes (a minimum of 50 across the wider site), wildflower planting and amenity lawns to Curzon Street and Curzon promenade.

Sustainability

- 7.62. In addition to the measures set out above, the Design and Access Statement states that the station is on target to achieve a net zero carbon building through the

deployment of low and zero carbon technologies, reducing carbon emission from the 'regulated load' by 103%. These technologies include air source heat pumps. LED lighting and photovoltaic panels.

- 7.63. Passive provision for connection to the District Heating network will be made. Connection to this network from day one was thoroughly explored however due to the position of the network not being adjacent to the station and that the decarbonisation of the energy sources of the network has yet to take place this was not possible.
- 7.64. In addition, passive provision that includes ductwork and a capable energy supply, for electric vehicle charging points for 50% of the car park would be provided to provide a flexible yet future ready approach.

Local Employment

- 7.65. As set out above, these matters are not relevant to the determination of the Schedule 17 applications. However, HS2 do have an undertaking and assurance with the city in relation to Skills, Education and Employment outputs and are working towards maximising the local employment and skills benefits presented by the project.



Curzon Square – Enhanced Scope

8. Conclusion

- 8.1. In conclusion, the design of the station's public realm, through a significant period of productive discussions, has evolved significantly to provide a high-quality urban environment. The enhanced urban realm will further uplift the wider benefits of the urban realm in comparison to the base condition. The urban realm will be of much wider benefit than just users of the station, providing key connections to the knowledge quarter and Digbeth.
- 8.2. In respect of highway, nature conservation and heritage impacts these are either fully mitigated through the design, controlled through other parts of the Act or are acceptable when the planning balance is applied.
- 8.3. Approval is therefore recommended.

9. Recommendation

- 9.1. That the application for Schedule 17 is APPROVED subject to the conditions listed below:

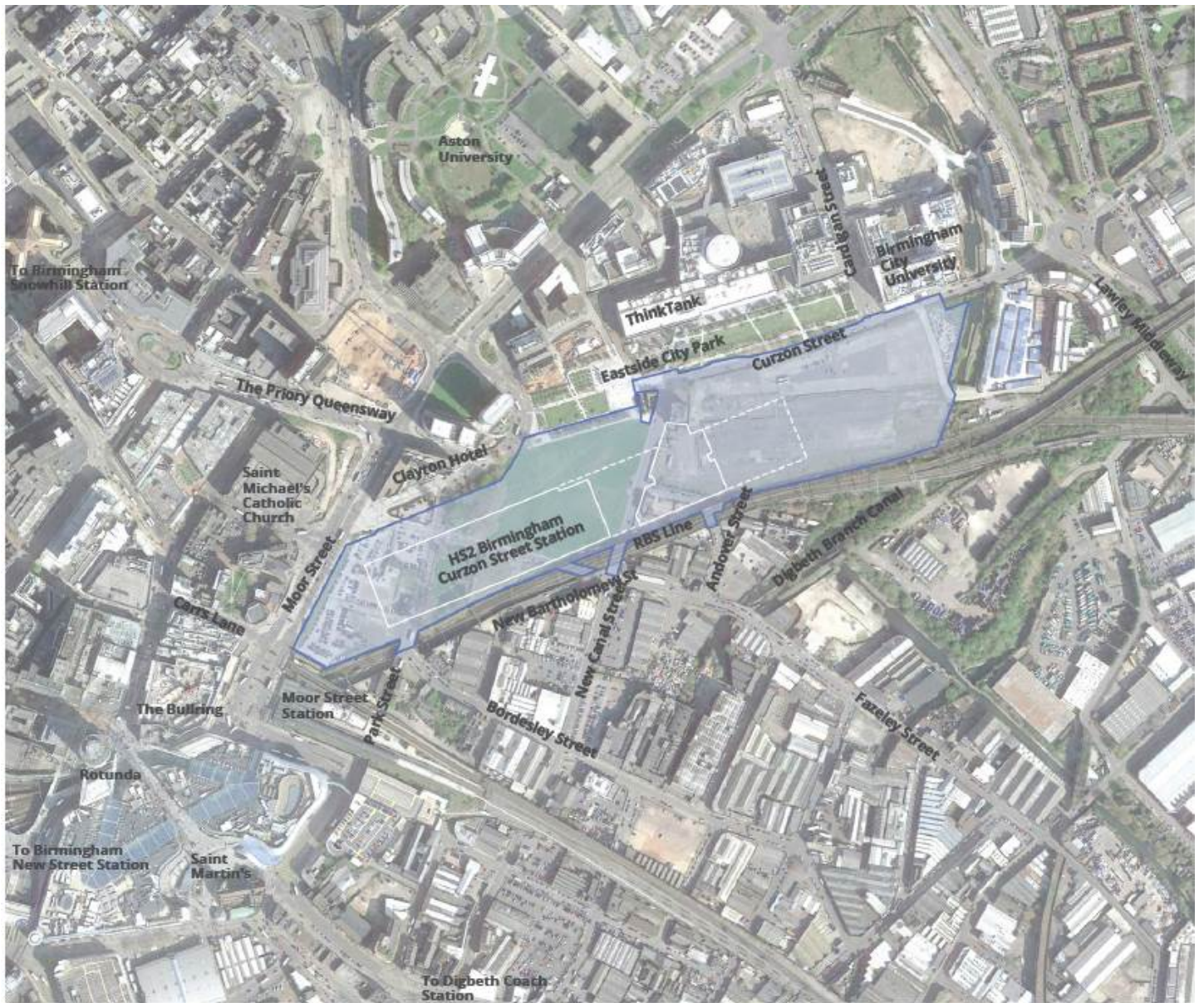
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- | | |
|---|--|
| 1 | Dictates the orientation of bird boxes |
| 2 | Requires further details of landscaping |
| 3 | Requires submission of paver details |
| 4 | Requires approval of the details of street furniture |
| 5 | Requires detail of an alternative material for Curzon Promenade |
| 6 | Requires the scheme to be in accordance with the listed approved plans |
-

Case Officer: Nicholas Jackson

Photo(s)

Google Earth Aerial Views of the site and environs showing the tent used as part of the exhumations

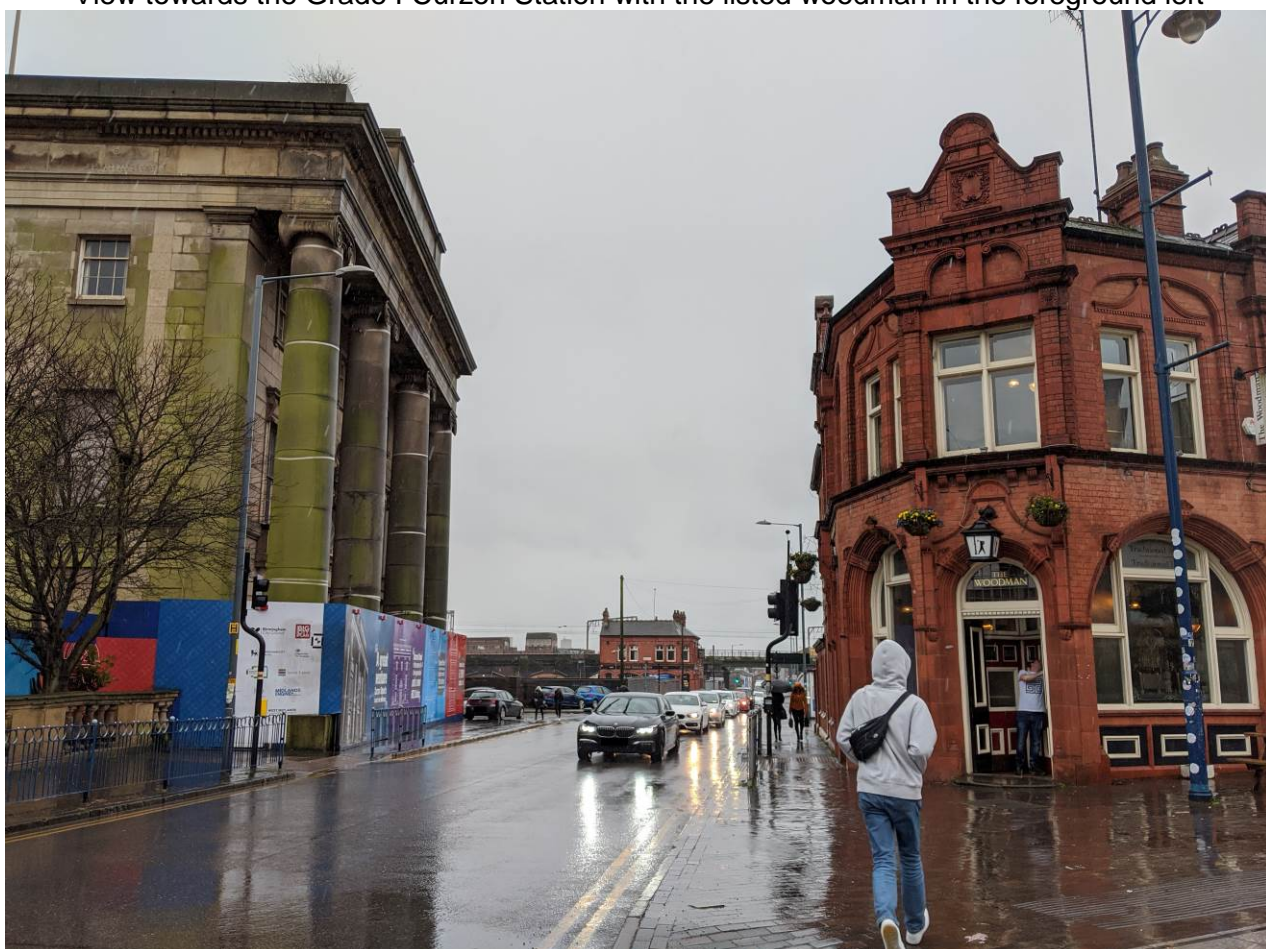




Panoramic View of the western part of the site from Eastside City Park



View towards the Grade I Curzon Station with the listed woodman in the foreground left



View approximately south along New Canal Street

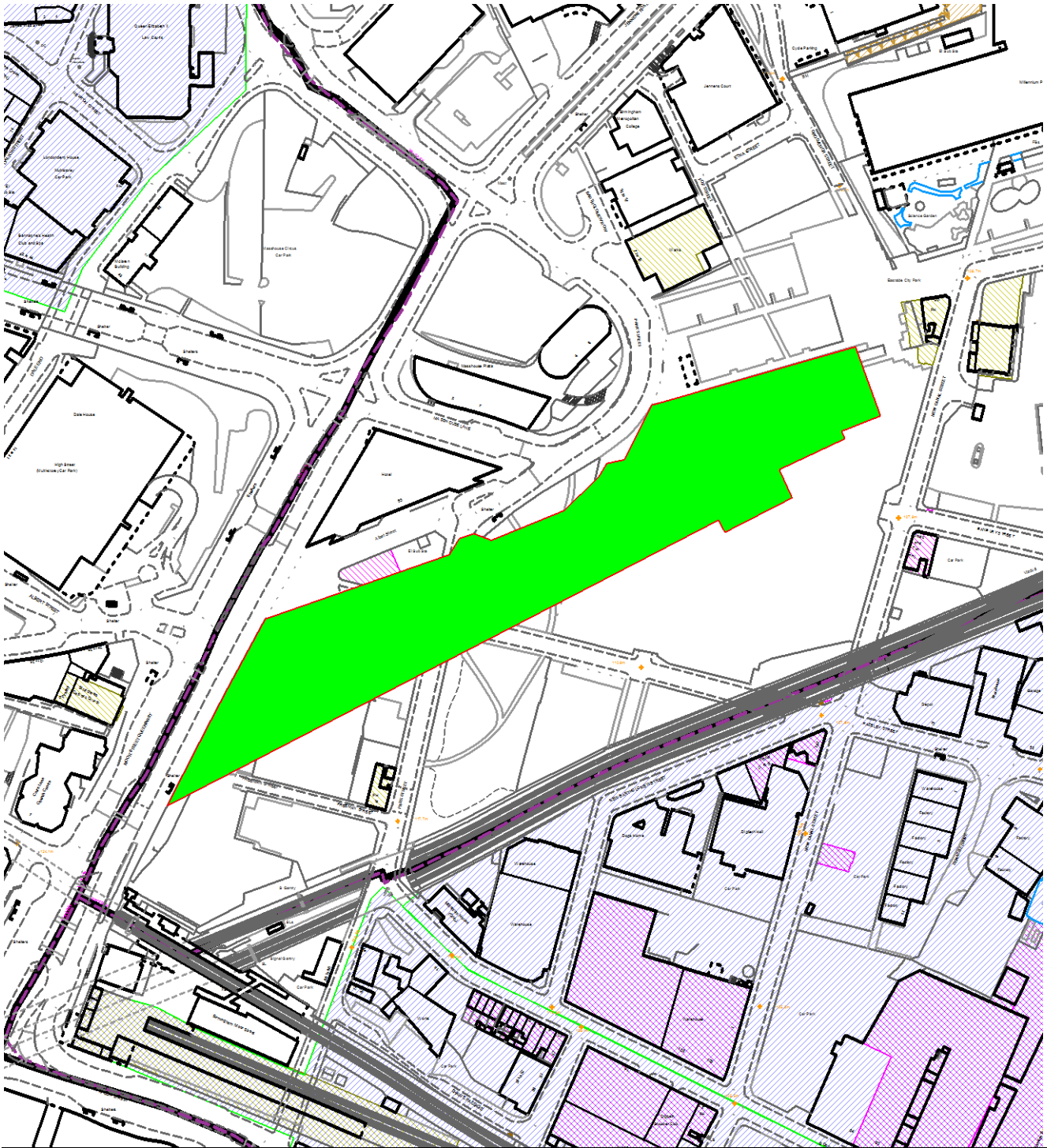


View of Millennium Point and Eastside City Park



View of the on-site archaeological investigations

Location Plan



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Committee Date:	23/04/2020	Application Number:	2019/04239/PA
Accepted:	30/05/2019	Application Type:	Full Planning
Target Date:	30/04/2020		
Ward:	Nechells		

Former CEAC building, corner of Jennens Road & James Watt Queensway, City Centre, Birmingham, B4 7PS

Erection of one 51 storey tower and one 15/16 storey tower containing 667 dwellings (Use Class C3) with associated ancillary spaces, landscaping and associated works

Recommendation

Approve Subject to a Section 106 Legal Agreement

Report back for One Eastside 2019/04239/PA

General Comments

- 1.1 On the 5th December 2019 your Committee resolved to approve application 2019/04239/PA for the erection of one 51 storey tower and one 15/16 storey tower containing 667 dwellings (C3) with associated ancillary spaces, landscaping and associated works subject to Historic England raising no objection and the signing of a S106 agreement. Since your Committee resolved to grant permission, Historic England's comments have been received. Historic England has not formally objected to the grant of permission but has raised concerns about the way in which the impact on heritage assets was assessed, including the accuracy of the assessment. It is for this reason, and the heightened risk of legal challenge that Officers consider that your Committee should be aware of Historic England's comments prior to a decision being issued and despite it not formally objecting to the Application.
- 1.2 Historic England's response notes that there are errors within the supporting documentation which refers to a development of 46 storeys rather than 51 storeys; that the application fails to record that Birmingham Children's Hospital is Grade II listed; that the Building Heritage Statement is based on a radius of 500m which is insufficient and lacks certain views, and that the TVIA is insufficient. As such they question how the LPA reached their conclusion and express concerns on heritage grounds, despite raising no objection overall.
- 1.3 In response the Applicant has provided additional information to clarify these points. They confirm that errors in the original supporting information have previously been addressed and note that whilst the Application was submitted some time prior to Birmingham Children's Hospital being statutorily listed, the impact of the proposed development on it was assessed due to it being a locally listed structure. Furthermore, the Applicant's Heritage Specialist highlights the robustness of their Built Heritage Statement and their Townscape Consultant confirms that the Townscape and Visual Impact Assessment was done in accordance with the industry standard guidance and recognised best practice.
- 1.4 The Application is not within a conservation area and there are no designated heritage assets within the site boundary, Historic England were notified only because,

in the Local Planning Authority's opinion, it could affect the setting of Grade I or Grade II* heritage assets (namely Curzon Street Station – Grade I and the Central Methodist Hall – Grade II*). However, Officers consider that these assets, along with others, have been robustly assessed within the applicant's supporting information and conclude that the proposed development would lead to less than substantial harm to the significance of these assets. (The listing of the Children's Hospital took place after the application was submitted but prior to determination. The report previously presented to you considered the impact upon the significance of this asset with the appropriate weighting. It is noted that as a Grade II listed building this would not trigger the need for a consultation with Historic England on this application). Therefore, whilst noting Historic England's comments, your Officers do not consider this changes the advice to your Committee with which you previously concurred. As such, I reiterate that the proposed development will lead to less than substantial harm to the significance of any of the designated heritage assets and that the wider public benefits of redeveloping a strategically important vacant piece of brownfield land for residential development would outweigh any harm. Whilst the less than substantial harms should be given particular weight and importance in accordance with the Listed Buildings Act and case law, the public benefits outweigh that harm and the proposed development would therefore be acceptable and accord with local and national planning policy.

- 1.5 In addition there is an update in respect of matters which have arisen during the drafting of the planning obligation, with regard to the scheme's viability. Officers previously recommended that the planning obligation contain a mechanism to enable a review of the viability of the scheme and the affordable housing contribution, in the event that the scheme changes from a PRS scheme to market sales. The developer has since provided a detailed market sales viability appraisal which has been extensively interrogated by the Council. This demonstrated that a sales scheme would be less viable than a PRS scheme and on that basis the Council is satisfied that it would not be appropriate nor in accordance with the NPPF, for the planning obligation to contain a mechanism for viability review. Instead the Council seeks to secure a mechanism to provide for payments in lieu of any affordable unit that is lost on site as a result of the scheme changing to a market sales scheme. This will ensure that there is no reduction in the overall contribution towards affordable housing. The recommendation has been updated accordingly

Recommendation

- 1.6 That Historic England's comments are noted and agree that this does not change the Committee's previous resolution.
- 1.7 Therefore, as the only outstanding matter, the consideration of planning application 2019/04239/PA should be approved subject to the completion of a planning obligation agreement to secure the following:
 - a) 20 one and two bed Affordable Private Rent units. The provision of these units shall be split 50/50 and pepper potted across the site. 50% of the units shall be provided by first occupation, with the remaining 50% provided by 75% occupancy. The rental cost of these units shall be retained at 20% below local market value in perpetuity.
 - b) A mechanism to secure a review payment or payments in lieu of any affordable unit(s) that may be released as affordable housing on site, in the event that the scheme changes from a PRS scheme.

- c) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 1.8 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 30th April 2020 the planning permission be refused for the following reason:
- a) In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 1.9 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 1.10 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 30th April 2020, favourable consideration be given to this application subject to the conditions listed below.

Addendum Report to item 13 for Planning Committee 5th December 2019

General Comments

1. Since the circulation of the agenda seven further letters of objection have been received and petition with 218 signatures. Objections are raised on the basis of:
- Lack of local consultation
 - No public space
 - Harm to heritage assets
 - No shops/leisure facilities at street level
 - Poor quality design
 - Impact on neighbouring buildings
 - Need more parking
 - That the sunlight/daylight assessment is unacceptable in terms of the lakeside amenity and the proposal would have an adverse impact
 - The space would be better utilised by Aston Uni, BCU or any other student/education focused development. Birmingham City Council should consider the long term effects on the student community.

Daylight and Sunlight Assessment

2. Two of the above objection letters contain a more detailed response to the applicant's sunlight/daylight report. The salient points of these letters can be summarised as follows;
- The impact to Exchange Square & Lakeside Residences is very substantial.
 - The window plots for Exchange Square have been omitted.
 - There is no daylight distribution analyses to surrounding residential properties if the layout is unknown, which is contrary to a recent High Court decision.
 - Even making allowances for the location of the development, as set out in Appendix F of the BRE Guide, the impact to Exchange Square remains significant.
 - The overshadowing conclusion to Lakeside Residences is misleading.
 - There will be a large increase in transient shadowing to Lakeside Residences and on the sports pitch and amenity areas to Aston University.

3. A further letter of support has been received.

Applicant's Response

4. The applicant has issued a detailed response relating to the more detailed matters on sunlight/daylight matters in turn as follows;
- The 'majority' of the windows do meet the BRE guidelines. However the detailed response, and the Daylight and Sunlight report submitted in support of the application do not attempt to hide the fact that the impact of the development would be such that not all the windows in the vicinity would meet the BRE guidelines and that Exchange Square would be the worst affected. However, various mitigating factors are identified as to why this is considered acceptable.
 - At the time the Daylight and Sunlight report was prepared and preceding site visits were undertaken to support the planning application, Exchange Square was under construction. However, the report included a plan appended to the report which indicated the groups of windows considered. Notwithstanding the report considers that this does not prevent a good understanding and assessment of the developments' impact.
 - The report is transparent about the areas of non-compliance and simply concludes that the areas of non-compliance should be balanced against all other material planning considerations as part of the overall planning judgement and is not therefore contrary to the quoted high court judgement (Sabine Guerry v Hammersmith & Fulham London Borough Council [2018] EWHC 2899).
 - The mirror image assessment is not mandatory and the general point being made in the report is that the windows are close to the boundary and that this is a relevant mitigating factor.
 - The detailed response identifies that the overshadowing conclusion to the Lakeside Residences (Appendix 3 of Sunlight and Daylight report) is not misleading and set out clearly in the key located at the top right corner of the plan clearly explains that the green hatching denotes those areas which receive under two hours sunlight both before and after the development.
 - A transient overshadowing assessment is not a mandatory requirement of the BRE Guide. One of the main limitations is that the images must be interpreted subjectively; and are open to misinterpretation. Given the limitations of shadow images, the Sunlight and Daylight report instead applied the BRE overshadowing to garden and open spaces test. This is an objective test that gives a pass or fail result and this demonstrated that the amenity space 'passed'.

Observations

5. Aside from detailed comments raised in respect of the Daylight and Sunlight report set out above, the additional objections primarily raise no new concerns, with the substantive issues having been dealt with within the original officer's report. In addition Members will recall that they were updated verbally at Committee on the 10th October about Aston University's objections with regard loss of sunlight/daylight to the lakeside amenity area. The resubmission of this objection does not raise any new issues for your Committee.
6. At the 10 October 2019 Planning Committee, your Committee also raised comments relating strictly to the following matters:
- Design;

- Viability; and
 - Birmingham Airport.
7. Information responding to these matters are addressed within the Report Back for item 13.
 8. Additional new points raised by one of the objectors in terms of the sunlight/daylight report reflect technical/interpretation differences with regard the application of BRE Guidelines. These points are comprehensively addressed by the agent's response as summarised above.
 9. In addition I would note that whilst High Places identifies the need for a sunlight/daylight report to be submitted in support of any 'tall' building it does not subsequently identify any specific standards that have to be met. There is also no planning policy within the BDP which quantifies how the level of sunlight/daylight should be assessed. Consequently the nationally recognised BRE guidelines are used as an indicator as to whether or not a development is likely to have such an adverse impact on existing resident's sunlight/daylight and their amenity. As part of this consideration mitigating circumstances, the limitations of BRE Guidelines and the wider policy context all have to be considered.
 10. Consequently, I would draw member's attention to a paragraph contained within the objectors report which states:
"The guidelines in question are precisely that: guidelines which provide a recommendation to inform site layout and design. They are not mandatory nor do they form planning policy and their interpretation may be treated flexibly depending on the specifics of each site."
 11. As such I would also draw members attention to para 6.17 of the original Daylight and Sunlight Report submitted in support of the application and its overall conclusions that on balance, the development would be acceptable and in accordance with planning policy. I do not therefore consider the additional information submitted requires a different conclusion to be reached to that identified and previously considered by your Committee.
 12. Your Conservation Officer has considered the impact of the proposal and concluded at 6.11 that the proposal will lead to less than substantial harm to the significance of any of the designated heritage assets. Historic England are currently considering the application and whilst the assessment at point 6.10 and 6.11 of the original report remain your Officers view, confirmation that Historic England raise no objection is required before a decision is issued. On that basis an additional resolution is recommended that identifies the application is deferred, minded to approve subject to Historic England raising no objection.

Recommendation

13. I do not consider that the further objections raise any new issues or require any different conclusions to be reached that would differ to the original or updated officers report. Therefore subject to Historic England not raising any objection, my recommendation that the application should be approved subject to conditions and completion of a legal agreement remains.

Additional resolution;

That consideration of planning application 2019/04239/PA be deferred minded to approve subject to Historic England raising no objection.

Report back - 5th December 2019

- 1.1 Members will recall that they deferred this application on the 10th October for additional information with regard design, affordable housing and Birmingham airport.

Design

- 1.2 The NPPF, Planning Practice Guidance and supplementary texts such as the National Design Guide emphasise the importance of good design and this is further reflected in local policies contained within Birmingham Development Plan and specific supplementary guidance such as Places for All and High Places.
- 1.3 As noted in the original report para 6.5-6.9 the application has been supported by assessments/documents including a Design and Access Statement which includes comprehensive information on engagement and site development, and a Townscape Visual Impact Assessment. Further to this, and following your Committee's deferral of the application, the application has been presented to the Design Review Panel.
- 1.4 Design Review Panel supported the form of the tower, the shoulder building and pavilion, their concept and relationship to one another. However, whilst they considered the architectural grid was strongly emphasised through the application of expressive vertical fluting which results in a highly successful architectural concept they felt some further consideration could be given to how the horizontal member could be executed. They also considered that the 'top, middle and base' elevations could be refined and that additional information to understand the impact of the site topography on the entrance was needed.
- 1.5 Consequently the applicant has provided an additional 3D bay drawing of the horizontal member and a visual of the ground floor entrance area showing how landscaping could be incorporated. Further they confirmed that the design approach had been taken to not exaggerate or place emphasis on the horizontal geometry but to produce a simple slender profile and not seeking to give the impression of disparate elements such as a 'top, middle and a base'. The designs have therefore been further refined and the horizontal GRC band has been omitted thus benefitting the scheme's vertical emphasis allowing the crown to be defined by the activity and lighting within it and the sculpted parapet detailing the buildings fullest extent. This additional information has been reviewed by your Officers, including the City Design Officer, and is considered to address the points raised by DRP.



Fig 1: site entrance

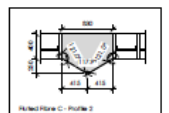
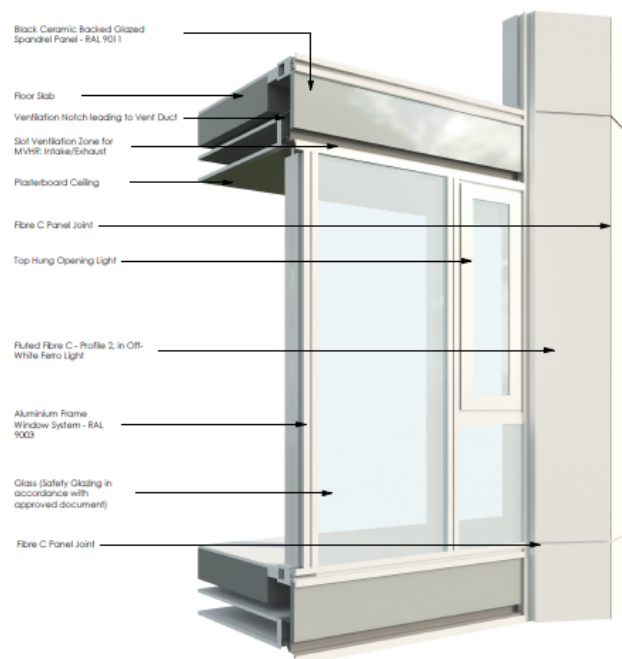


Fig 2: bay detail

- 1.6 DRP also agreed that the proposed principal external material, white GRC modular panel, was an accepted system of modern construction but that details such as the location of expansion joints should be considered. They also felt that the specific materials of the corner pavilion should be considered further, as should the detailed design of the boundary fence. Suggested conditions 5, 19 and 20 on the original report secure these details.

- 1.7 The supplementary information provides additional comfort with regard the design integrity of this 51 storey residential building and has been reviewed and accepted by your City Design and Planning Officers. As such, subject to conditions to control the detailed materials and their application, Officer advice remains in line with that detailed in the original report that the layout, scale and design of the proposal will create a distinct landmark building and enhance the City's skyline on a strategically important site in accordance with both local and national planning policies.

Viability

- 1.8 As noted in the original report contributions towards public open space and affordable housing are required. Policy TP9 states the "Public open space should **aim** to be provided....." and Policy TP31 states that "The City Council will seek 35% affordable homes as a developer contribution on residential developments of 15 dwellings or more." However it goes on to state that "Where the applicant considers that a development proposal cannot provide affordable housing in accordance with the percentages set out above,...the viability of the proposal will be assessed using a viability assessment tool..."
- 1.9 The application is supported by a financial appraisal, which meets local and national requirements including government guidance identified within Planning Practice Guidance (PPG) and has been independently assessed. The application is also supported by an Economic Statement which identifies the quantifiable economic impacts during construction to include construction expenditure of approx. £112 million, 260 full-time equivalent (FTE) construction jobs per annum during the build period, 375 direct, indirect and induced net additional FTE across West Midlands during construction and a circa £75m uplift in productivity within the West Midlands regional economy, with operational phase impacts in addition to that.
- 1.10 The application detail has not fundamentally changed since your Committee's deferral and there is therefore no further information available to consider in respect of the scheme's viability. This development involves a single phase development, which the applicant intends to build out as soon as possible following the grant of planning permission. In addition, Members are reminded that your Officers have already secured an increased S106 offer which is currently identified for affordable housing. The scheme's viability has been extensively interrogated and is considered realistic, buildable and deliverable in the form proposed and I note that a reduction in tower height would not deliver equivalent construction saving equivalent to the loss of units per floor. As such I would draw member's attention to paragraphs 6.31 and 6.32 of the original report which confirms the robustness of the financial appraisal and the independent advisor's view that the scheme is at the limit of its viability. Therefore whilst the contributions fail to meet the policy aspirations in full, on the basis of the independent appraisal I consider the offer of 20 on-site private affordable rent units (equivalent to £887,616.00) would be the most that the proposed scheme could sensibly sustain and that it has been demonstrated that this offer would accord with policy.
- 1.11 In addition, given the applicant's intent to start on site immediately, and build in a single phase, I do not consider it would disadvantage them if the time period condition was reduced from 3 years to 2 thereby securing the development is started and brought forward under the current financial climate. Such an approach has previously been taken other city centre sites (former Ice Rink, Skinner Street and Connaught) and I consider this would be a clear and consistent and a fair way to safeguard the applicant and the City in relation to viability on a development of this nature.

- 1.12 Finally, your committee may consider it more appropriate that a financial contribution towards public open space was made rather than affordable housing and on this basis the resolution could be amended accordingly. This additional information provides further detail as to how the architectural concept of this high quality well-designed building will successfully be achieved

Birmingham Airport

- 1.13 High Places SPG requires that Birmingham Airport are consulted on developments that would exceed 242m AOD (above ordnance datum). This building would exceed this height at 273.4m AOD and whilst Birmingham Airport raised no objection to the building height itself they raised concerns about the impact the construction cranes may have. Consequently a NATS Assessment has been undertaken which identified that the existing circling height for Category D aircraft would need to be increased slightly to ensure the construction would not have an adverse impact on airport safety. This increase has been agreed with Birmingham Airport and their air traffic controllers. Therefore subject to conditions to secure a radar assessment and a condition to prevent development above the existing agreed height of 242m AOD until the new 'circling' heights have been ratified by the CAA they raise no objection. I recommend these conditions accordingly and these can be found on p18 of this report.

Conclusion

- 1.14 Additional information has been provided in respect of design detailing and Birmingham Airport have removed their objection. This is high quality PRS (private rent) scheme which would deliver an outstanding design and help realise the Council's ambition to deliver tall buildings as part of its on-going regeneration on a strategically and highly prominent, sustainable site. Therefore, subject to the removal of resolutions 8.1 and 8.2, an amended time period for completion of the legal agreement, the additional 'airport' conditions and subject to the alteration of the 'time limit' condition from 3 to 2 years, I recommend approval as per the original report including verbal updates.

Recommendation

- 2.1 That consideration of planning application 2019/04239/PA be deferred pending the completion of a planning obligation agreement to secure the following:
- a) 20 one and two bed Affordable Private Rent units. The provision of these units shall be split 50/50 and pepper potted across the site. 50% of the units shall be provided by first occupation, with the remaining 50% provided by 75% occupancy. The rental cost of these units shall be retained at 20% below local market value in perpetuity.
 - b) A mechanism to secure a review of the financial appraisal/contribution should the development change from a PRS scheme to market sale.
 - c) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.
- 2.2 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 20th December 2019 the planning permission be refused for the following reason:

- a) In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 2.3 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 2.4 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 20th December 2019, favourable consideration be given to this application subject to the conditions listed below

10th October Report (including verbal updates)

- 1. **Proposal**
- 1.1. Application is for the erection of one 51 storey tower, a 15/16 storey tower and a 2 storey pavilion building on land on the corner of Jennens Road and James Watt Queensway. The development would comprise of 667 one and two bed apartments along with ancillary internal and external amenity spaces. It is proposed as a PRS development and would be operated by a single operator.
- 1.2. The towers would be of a modern but simple classic grid design. Each tower would share common detailed design features such as floor to ceiling windows, deep rectangular reveals, colonnades and tapered 'crowns'. They would be constructed using a minimalist white colour palette with Tower A clad in fluted white GRC (glass re-enforced concrete) with horizontal and vertical solid black backed glass spandrel panels whilst Tower B would comprise of pure white GRC in a square buttress style along with horizontal and vertical solid black backed glass spandrel panels. Both towers would use an aluminium window system with an opening light and PV Panels would be accommodated on the roofs. The 2 storey pavilion would be constructed using a metal framed glazed system with transparent and black opaque glass, with the metal frame colonnade finished in a ceramic green gloss. The pavilion building would also support a brown roof. Specific materials would be controlled by condition.
- 1.3. The proposed development would have a total gross floor area of 52,560 sqm – the buildings would have the following dimensions;

Tower A – 49.9m x 18.5m x 155.145m
Tower B – 43.6m x 17.5m x 51m
Pavillion building – 15.5m x 13.3m



Fig 1: night view from north west



Fig 2: day view from south

- 1.4. The scheme would provide 357 one bed (54%) and 310 two bed (46%) apartments, of which 527 would be accommodated in Tower A and 140 in Tower B. The flats would range in size from 38.21 sqm to 71.36 sqm and would all exceed the national standards. Internally the units would comprise one or two bedrooms, an open plan living/kitchen/dining area, 1 or 2 bathrooms and storage area.
- 1.5. A gym, cinema room, co-work spaces, meeting rooms, lounge space, roof terrace, residents' lounge, games room and private dining/kitchen area would also be provided across the three buildings for residents' use (circ 1200sq m). In excess of 3200sqm of external amenity space would also be provided in a secure courtyard garden between the two towers.
- 1.6. No car parking would be provided on site but 132 (20%) secure covered bike spaces would be provided. A service/drop off area would be provided to the west of the site via James Watt Queensway, which would be managed by the future operator.
- 1.7. Information submitted in support of the application includes; Design and Access Statement, Planning Statement, Economic Statement, Financial Viability Statement, Sustainability Statement, City Centre Housing Needs Assessment, Transport Statement and Travel Plan, Heritage Statement, Archaeology Report, Noise Assessment, Air Quality Assessment, Preliminary Ecology Report, Townscape Visual Impact Assessment (TVIA), Drainage Strategy, Aerodrome Safeguarding Assessment, Phase 1 Geo Environmental Report, Daylight and Sunlight Assessment, TV and Telecoms Assessment and Wind Microclimate and Pedestrian Wind Comfort Assessment.
- 1.8. A screening request was considered which concluded an ES was not required.
- 1.9. [Link to Documents](#)

2. Site & Surroundings

- 2.1. The application site lies on the edge of the BDP defined, city core within the inner ring road of Birmingham City Centre. The site is situated on the corner of Jennens Road and James Watt Queensway. It is in close proximity to a wide mix of uses including residential, commercial (office, retail and hotels) and educational uses.
- 2.2. The site was previously occupied by a 6 storey 1970's former teaching block which formed part of a wider university/college campus which included Aston University and parts of Birmingham Metropolitan College and Birmingham City University. The site has been vacant for some time and is currently in the process of being demolished.
- 2.3. There has been significant change in this part of the city over the past decade, in part as a result of the wider 'masshouse development' and the removal of the former 'concrete collar'. The character of this area continues to evolve as the regeneration potential of this part of the city is realised supported by opportunities such as HS2.

2.4. [Site location](#)

3. Planning History

- 3.1. 28th February 2019 – 2019/00617/PA Application for Prior Notification for the proposed demolition of existing building and surface level car park. No Prior Approval Required.

4. Consultation/PP Responses

- 4.1. Access Birmingham – Note that inclusive access will be required by building regulations.
- 4.2. Birmingham Airport – Object as the information does not assess the impact of the towers or the cranes on the safeguarding zone of the formalised flightpath.
- 4.3. Education and Skills (employment) – Employment conditions required with regard construction period.
- 4.4. Education and Skills (schools) – £1,359,440.64 contribution required towards nursery/school places.
- 4.5. Lead Local Flood Authority – No objection subject to conditions to secure specific drainage detail and sustainable drainage operation and maintenance plan.
- 4.6. Leisure Services – No objections in principle, however in line with policy an off-site contribution of £1.26m for provision, improvement and or maintenance of POS within the Nechells Ward and Eastside Park is required.
- 4.7. Network Rail – Proposal would have no impact on rail infrastructure.
- 4.8. Regulatory Services – **No objections following submission of additional information subject to additional conditions with regard proposed glazing and noise insulation.**
- 4.9. Severn Trent – No objection subject to conditions to secure appropriate drainage for foul and surface water.

- 4.10. Sport England – Proposed development will result in demand for sporting provision and on and off-site provision should be sought. However no objections subject to financial contribution of £645,628 which should be used towards IPL swimming pool and playing field investment within the City.
- 4.11. Transportation Development – No objections subject to conditions with regard servicing and delivery management plan, S278 works and a travel plan.
- 4.12. West Midlands Police – Development needs to comply with all relevant design guidance such as Secure by Design. In addition they raise various questions with regard the proposed pavilion, staffing levels and postal delivery but they also note their support for there being no residential accommodation at ground floor and the clear demarcation of public and private spaces. They raise concerns about the lack of parking provision.
- 4.13. Local residents associations', neighbours, Ward Councillors and the MP were consulted. Press and site notices were also displayed.
- 4.14. 2 letters of objection, one from a local resident and one from a land owner, have been received and raise objections on the basis that the principle of development is not acceptable (it fails to comply with High Places), the proposal would have an unacceptable impact on visual harm, it would have an adverse impact on heritage assets, its poor quality design, that it would result in poor quality urban realm with a high security fence, there would be no retail or leisure activities at base of tower, it would have an unacceptable impact on sunlight/daylight on adjacent sites, it would have an inadequate mix of homes, it would not provide any affordable housing, it would have an unknown impact on the micro-climate impact and insufficient engagement has been undertaken with local people and business. A further letter of objection from one of the above objectors has been received following the submission of additional information by the application. This letter raises no addition issues.

4.15 Verbal updates;

- **1 letter of objection from Aston University – The letter raises more detailed concerns about the impact of the development on loss of light/overshadowing of student accommodation including gardens and the lakeside amenity. In particular they consider the assessment of the lakeside area is inadequate. As such they have commissioned a shadow plot assessment and they consider this shows the development will have a much greater impact and that this makes a more accurate assessment of the impact of the proposed development. As such they object to the development as they consider their assessment demonstrates that the impact of the development is significant and that the use and enjoyment of the space would be affected.**
- **1 further letter from a landowner who has commented previously has also been received. They raise points on heritage, design, sunlight/daylight, microclimate, cycle parking and lack of information. No new planning issues are raised. They also complain that the consultation responses are not available on the web and their FOI request has not been responded to.**

- **The applicant has responded to the additional objections as follows; The University objection uses a transient shadowing analysis in March. This assessment is subjective. They also note that the month of March is not the optimal time of year to be using an area of open space in the UK, and if the transient shadowing method of analysis were carried out in June, the level of shadow caused by One Eastside would be significantly less.**

Whilst the agents emphasise that they have used the BRE overshadowing test for gardens and open spaces in March, which is considered much more appropriate and objective for this context and that this test demonstrates that 98% of the open space will receive over 2 or more hours of sunlight on 21st March and thus comfortably passes the relevant BRE test. It should also be noted that the small area of land which will be affected is already 'in shade' being under an existing tree canopy.

In addition in terms of the reference to inaccurate information the applicant has confirmed the reports were done on the basis of the scheme description and that reference to other unapproved towers were cited to highlight recent and emerging contextual changes but do not alter the context or bearing of the assessment.

5. Policy Context

- 5.1. Birmingham UDP 2005 saved policies; Birmingham Development Plan 2017; Places for Living SPG; Places for All SPG; Access for People with Disabilities SPG; Car Parking Guidelines SPD; High Places SPG; Lighting Places SPD; Public Open Space in New Residential Development SPD; Affordable Housing SPG; Planning Policy Guidance and the National Planning Policy Framework.

6. Planning Considerations

- 6.1. In January 2017 the City Council adopted the Birmingham Development Plan (BDP). The BDP is intended to provide a long term strategy for the whole of the City and replaced the UDP 2005 with the exception of the saved policies in Chapter 8 of the plan.
- 6.2. Policy PG1 advises that over the plan period significant levels of housing, employment, office and retail development will be planned for and provided along with supporting infrastructure and environmental enhancements.
- 6.3. In respect of housing need the BDP states that its objectively assessed need is 89,000 across the plan period (until 2031) to meet the forecast increase in Birmingham's population of 150,000. Due to constraints across the administrative area the Plan only plans to provide 51,100.
- 6.4. The application site is located within the Eastside Quarter of the City Centre immediately adjacent a wider area of change. The site is well connected to amenities and facilities and a brownfield site. The provision of a residential development with supporting ancillary facilities would, in line with GA1.3 realise this areas "...extensive development opportunities..." and bring significant investment to this part of the City in addition to making an important contribution to the housing stock in the locality. I therefore concur with my Strategic Planning Officers who raise no objection in land use policy terms to the proposal subject to all detailed matters.

Layout, scale and design

- 6.5 Local planning policies and the revised NPPF (Feb 2019) highlight the importance of creating high quality buildings and places and that good design is a key aspect to achieving sustainable development. Policies PG3 and TP27 of the BDP state the need for all new residential development to be of the highest possible standards which reinforce and create a positive sense of place as well as a safe and attractive environment. Supplementary documents also provide further guidance for the need for good design including the City's 'High Places' SPG which provides specific advice for proposals which include elements in excess of 15 storeys. It advises that, generally, tall buildings will be accommodated within the City Centre ridge zone, it also advises that tall buildings will;
- Respond positively to the local context and be of the highest quality in architectural form, detail and materials;
 - Not have an unacceptable impact in terms of shadowing and microclimate;
 - Help people on foot move around safely and easily
 - Be sustainable
 - Consider the impact on local public transport; and
 - Be lit by a well-designed lighting scheme
- 6.6 The site layout results in a staggered form with Tower B positioned to reflect and relate to the existing adjacent buildings, the pavilion building to mark the northwest corner and Tower A positioned to re-enforce the development form along James Watt Queensway and maximise the site's prominence and site line, particularly from the south west. Site access would be via Tower A, off James Watt Queensway with additional resident's access via the courtyard garden area off Jennen's Road. The buildings, at all levels, would activate the street scene, particularly to James Watt Queensway and Jennen's Road, resulting in a significant improvement on the interaction and surveillance provided by the previous building. In addition, the two storey pavilion building now proposed as an amended corner solution to Coleshill Street/James Watt Queensway, would also provide a strong modern solution which would further activate this prominent location. The proposed gym use inside the pavilion would also further support the day and night surveillance of the street.
- 6.7 The scale of the buildings range from 2 to 51 storeys, primarily comprising of two towers. The site is to the edge of the central ridge zone and principle of towers in this part of the city is therefore acceptable. The applicant has provided comprehensive supporting information within their Design and Access Statement and a Townscape Visual Impact Assessment (TVIA) which demonstrates that the proposed towers would not have an adverse impact on the street scene or the City's longer range views. I note an objectors concern that unapproved taller buildings have been referenced within this report but do not consider this significant in the assessment of the proposal. I therefore concur with Head of City Design who considers that the scale of the development would be a positive addition to City's skyline. Further, the building's width compares favourably to the width of existing developments at Exchange Square, the McLaren building and the Masshouse development, and this coupled with the site layout and detailed design results in the mass of both towers being effectively broken down.
- 6.8 The Head of City Design has been intensely involved with this application and its detailed design has continued to be refined during the application process. As such the materials and design features such as the use of colannades, deep reveals and large floor to ceiling windows are welcomed. I also note that Tower A's GRC flutes

helps create the illusion of a symmetrical and vertical façade which would result in a crisp well-articulated façade, whilst the detailed design of Tower B successfully creates a simple block with its own identity which acknowledges the materiality and vertical emphasis of Tower A to maintain a clear relationship between the two. Finally I welcome design rational behind the proposed pavilion building which uses the former on-site pub as inspiration for its dimensions and the ceramic tile influence for the proposed colonnade frame colour. The colonnade frame also successfully references the façade and rhythm of the towers and ensures continuity across the site. As such I consider the design detail would result in a high quality landmark development.

- 6.9 Therefore subject to conditions to control the detailed materials and their application, I concur with the Head of City Design who considers the layout, scale and design of the proposal is acceptable and will create a distinct landmark building and enhance the City's skyline on a strategically important site.

Heritage

- 6.10 The site is not within a conservation area and there are no heritage assets within the site boundary. However a Heritage Statement has been submitted in support of the application which assesses the proposal in relation to a number of statutory listed buildings in the vicinity.
- 6.11 **Section 66 of the Planning (Listed Building & Conservation Area) Act 1990** and paragraphs 184-202 of the NPPF identifies the importance of heritage and how local planning authorities should deal with this matter. **Section 66 of the Act requires that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority ... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'** The legislative requirement to 'preserve the setting' of a listed building is therefore in conflict with the NPPF which allows for harm (substantial or less than substantial) to occur if this is outweighed by public benefit. However, case law (see particularly *E Northants DC v Secretary of State for Communities and Local Government* [2014] EWC A Civ 137) confirms that the duties imposed under the Act indicate that where harm to a listed building or conservation area or its setting is identified this is a matter to which great weight and importance should be attached in the planning balance. My Conservation Officer has considered the report and accepts that the proposal will lead to less than substantial harm to the significance of any of the designated heritage assets and therefore, given the wider public benefits of re-developing a currently vacant, strategically important brownfield land for residential development which would outweigh the harm I consider the proposal would be acceptable and accord with local and national planning policy.

Amenity

Sunlight/Daylight

- 6.12 Objections have been raised with regard the developments impact on loss of sunlight/daylight in relation to the existing surrounding area, in particular residential accommodation under construction at Exchange Square and the public open space at Aston University.

- 6.13 The NPPF, paragraph 123, emphasises that local planning authorities should “...refuse applications which they consider fail to make efficient use of land...” and that when considering applications for residential use they should “.. take a flexible approach in applying policies or guidance relating to daylight and sunlight....(as long as the resulting scheme would provide acceptable living standards)” The BDP does not contain minimum standards of sunlight/daylight levels.
- 6.14 Notwithstanding this the applicant has submitted a Daylight, Sunlight and Overshadowing report in support of the application and this assesses the impact of the proposed development in relation to surrounding residential accommodation and public and private amenity spaces. The report is based on industry wide recognised Building Research Standards (BRE) which provides guidance on avoiding unacceptable daylight and sunlight impacts on existing and proposed development.
- 6.15 In terms of existing residential accommodation (including those under construction) it notes that whilst the vast majority of rooms do comply with BRE numerical guidelines there are isolated locations where these guidelines are not met, particularly in relation to the under construction development at Exchange Square. However even in these instances it considers light level alterations to be minimal and that good internal amenity would be achieved, particularly when the limitations of BRE assessments are also considered.
- 6.16 The publically accessible lakeside open space at Aston University is well used and is an important asset in the City’s green and open space infrastructure. Therefore as part of an amended BRE assessment an objective overshadowing test has been done which demonstrates that the proposed development would have a minimal impact on this area with 98% of the amenity space continuing to receive 2 hours of sunlight on the 21st March, significantly above the 50% identified by the BRE guidance.
- 6.17 The submitted information is comprehensive and I have no reason to contest its findings. Further I note the limitations of applying BRE guidelines to a dense urban development rather than a suburban context for which they were developed. I also note that natural lighting is only one of the many factors in site layout and design which has to be considered. Therefore, whilst there are instances where the BRE guidance is not met, in these instances the loss of sunlight/daylight or overshadowing is not likely to be so significant, and light levels would remain good, particularly for a dense urban site. Therefore, on balance, given the context of development, the wider regeneration benefits of the sites redevelopment and the positive contribution to the City’s housing need I consider the proposal would result in acceptable living standards for existing and future occupiers and that it would have acceptable impacts on public amenity. As such the proposal would be in line with local and national planning policy in this respect.

Overlooking

- 6.18 There are no policies that specify minimum separation distances between proposed residential and existing office accommodation. Therefore whilst the eastern side of Tower B would look onto the adjacent college the majority of the proposed building would be 23m away. Further, whilst there is a ‘pinch point’ where the distance is reduced to 7m the internal layout has been arranged to ensure a staircore and larger dual aspect units are positioned in this locality. Tower A and tower B are angled and are not positioned directly opposite each other. As such I consider the development would not adversely affect the amenities of future occupiers by virtue of overlooking.

Wind

- 6.19 A wind report has been submitted in support of the application which concludes that the impact of proposed development would be minimal and that the majority of the surrounding areas would meet the most rigorous criteria used within such assessments. However, even where it does not the wind levels would not be so great as to have an adverse impact on pedestrians walking or resting for a short while in these localities. Further I note these areas, such as along James Watt Queensway and Coleshill Street, would not be appropriate for activities that encourage long periods of resting. On this basis therefore, I consider the proposal would not have an adverse impact on the wind environment of the built environment.

Sustainability

- 6.20 Policies TP1-TP5 of the BDP identify the need for any new development to be 'sustainable' and whilst they do not identify specific % reduction targets or require a minimum % of low/zero carbon technologies on each development they encourage developers to consider a wide range of measures to reduce Co2 emissions, promote low + zero carbon and adapt to climate change.
- 6.21 The application is supported by an energy assessment and it considers various advantages/disadvantages of a variety of 'sustainable' measures. The proposed building is identified for a fabric first approach. The residential units would be electrically heated and amenity spaces would have heating and cooling provided by highly efficient variable refrigerant volume (VRF) air source heat pump systems. Photovoltaic panels would be provided on the tower roofs and a brown roof would be provided on the pavilion. I also note the sustainable location of the site and its car parking approach and the Energy Assessment identifies that this approach would result in an 11% improvement on building fabric and 5% improvements on the overall development when considered against the Building Regulation requirements. As such I consider the proposal would satisfy the aims and objectives of both local and national planning policy.
- 6.22 The proposal includes landscaping as part of a courtyard garden and a brown roof. My Landscape Architect, Ecologist and Tree Officer largely welcome the proposals subject to conditions to secure details such as bird/bat boxes, lighting, planting plan, management plan and an ecological enhancement plan, and consider it would enhance the biodiversity of the site. However, fencing is proposed around the entire site to provide a secure garden area for future residents. The boundary would provide clear demarcation of public and private areas whilst the landscaping would be visible in the public realm. Therefore, whilst I accept the principle of a perimeter fence I consider it needs further refinement, both in design terms and height with particular reference to the southern and eastern boundaries, to ensure it does not result in an oppressive feature which would detract from the visual appearance of the street scene. I also therefore attach a condition in this respect.

Mix and need

- 6.23 Policy TP30 states that proposals for new housing should deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. It also identifies that high density schemes will be sought in the city centre. The redevelopment of the site would deliver additional housing on a brownfield within the Eastside quarter of the City Centre which sits immediately adjacent to a wider area of change and in close proximity to the anticipated HS2 station. The proposed mix would deliver only 1 and 2 bed

apartments however the application has submitted a comprehensive Housing Need Assessment in support of this application which demonstrates that the composition of the household size and future demand is markedly different to the wider strategic housing need.

- 6.24 Therefore whilst City's housing evidence base indicates that there is a need for larger properties I acknowledge this is with reference to Birmingham's strategic housing area as a whole. Further I note it does not take account of demand in more localised locations such as the City Centre where there is significantly less land available, housing densities are expected to be higher and detailed data analysis suggests demand for smaller units is more likely. I also note policy PG1 and TP29 which identify housing need/delivery and consider that this scheme would positively contribute towards the achievement of these figures. All the units comply with the National Space Standards. I therefore consider the proposal is acceptable and in line with policy in this respect.

Parking

- 6.25 Policies TP38-41 encourage development where sustainable transport networks exist and/or are enhanced. In addition to supporting sustainable transport networks the Car Parking SPD identifies the expected maximum car parking provision for each land use, dependent on the sites location, and in this instance identifies a maximum provision of 1 car parking space per dwelling.
- 6.26 The application has been supported by a Transport Assessment. A single servicing/delivery access point is identified to the west of the site. No on-site car parking is proposed. The proposed cycle parking at 20% is below the 100% provision identified within Car Parking Guidelines SPD.
- 6.27 Details have been submitted to demonstrate the acceptability of the proposed servicing arrangements. The site is a highly sustainable city centre location where sustainable transport networks already exist and the site has excellent access to tram, train, car hire and bus services in addition to access to a wide range of employment opportunities, leisure facilities and 'day to day' amenities/services, all within walking distance. I also note the proposed operator's experience of cycle parking demand at their existing PRS facilities and their commitment to review this provision and increase/improve if necessary. Finally I note that there are car parks in close proximity which future occupiers could utilise if they had a need for a car or visitors to the site travelled by car.
- 6.28 Therefore, subject to conditions to secure a servicing and delivery management plan, a S278 Agreement and a travel plan, I concur with Transportation Development who consider that that the development would be acceptable and comply with both local and national planning policy.

Planning Obligations

- 6.29 The proposed development does not attract a CIL contribution but given the level of development proposed Policy TP9, which requires new public open space to be provided in accordance with the Public Open Space in New Residential Development SPG, and Policy TP31, which requires 35% affordable housing unless it can be demonstrated that this would make the development unviable, are applicable. The NPPF also requires that 10% of any affordable housing offer should be provided on-site.

- 6.30 The application has been supported by a financial appraisal which demonstrates that the costs of the development are such that it would result in only a 10% profit on cost and a contribution towards affordable housing or public open space was not therefore proposed.
- 6.31 However, the financial appraisal has been independently appraised and whilst the City's advisor notes that the applicant's financial appraisal is largely well justified, with revenue as per the forward funding agreement and the build costs based on the appointed contactor's quotation, officers have successfully challenged a number of the assumptions made. Consequently an on-site provision of 20 affordable private rent units at 20% discount (in line with NPPF requirements), equivalent to 3%, is now proposed. The applicant has also agreed to a review mechanism being included within the S106 which would require a review of the FA, and the S106 if appropriate, should the development change from PRS to market sale scheme.
- 6.32 As a PRS scheme low yields are expected over a much longer period of time when compared to build to sell schemes and this has significant impacts on a schemes viability. Acknowledging this, and the tests that this proposal has been subjected to to ensure it is buildable and high quality landmark development on a strategically important site I concur with the independent appraiser's view that the proposed scheme would not be financially viable if a greater contribution were required. I therefore consider the offer proposed is acceptable.
- 6.33 Education have requested a financial contribution however education is identified on the CIL 123 list and it would not therefore be appropriate to request a further contribution in this instance. I also note Sport England have identified the need for a contribution, however given the schemes viability and the Council's priorities I consider it would be unreasonable to require this in this instance.

Other

- 6.34 Birmingham airport have raised an objection to the scheme due to there being insufficient information submitted to demonstrate that the cranes needed for construction would not adversely impact upon the recently formalised flightpath. The applicant continues to work with the Airport to address these concerns and have provided details of a 'saddleback' crane. Critically this would then mean the cranes would not exceed the height of the BT Tower and should not adversely impact on the safeguarding zone. Birmingham Airport **have confirmed that a NATS (National Air Traffic Services) assessment is required.** However, in order to prevent further delay to this application I consider it would be appropriate for your Committee to defer minded to approve subject to the removal of this objection. An appropriate resolution is therefore recommended.
- 6.35 Air Quality Assessment recommends that residential accommodation up to the third floor could be adversely affected by pollutants and therefore, as a precautionary approach, mitigation should be provided to include sealed units or units with purge ventilation in these locations with air filtration provided from a higher intake. The Noise Assessment submitted identifies the need for various levels of glazing but notes that this can be provided to provide satisfactory internal environments. Subject to conditions to control the mitigation proposed within these reports Regulatory Services raise no objection but they do note that plant on the roof top of the adjacent Matthew Bolton College has not been assessed. However whilst future residents above the 12th floor in Tower B would have site lines of this equipment, given the distance away I consider it unlikely that it would generate noise levels which could not be satisfactorily addressed through glazing levels. I also note this has been

raised very late in the process of this application. Therefore subject to a condition requiring an additional noise survey I consider satisfactory internal noise levels could be achieved. Land contamination conditions are also recommended.

- 6.36 The Lead Local Flood Authority and Severn Trent raise no objection subject to conditions to secure specific drainage details along with a sustainable drainage operation and management plan which I attach accordingly.
- 6.37 West Midlands Police have made comments which relate to a range of matters that would be controlled by other legislation and these details have been passed on to the applicant. However conditions with regard lighting, site management and cctv are recommended.
- 6.38 Consultation was undertaken by the applicant prior to the formal submission of the application and the local planning authority has carried out consultation in excess of the statutory minimum.

7. Conclusion

- 7.1. The proposal would provide a well-designed tower development and result in a high quality brownfield development on a prominent and sustainable City Centre location in accordance with the aims and objectives of both local and national planning policy. Issues raised by objections have been appraised, and on balance, the wider benefits of the scheme would outweigh any potential impacts. Therefore subject to the signing of the S106 agreement, the proposal should be approved.

8. Recommendation

- 8.1. That consideration of planning application 2019/04239/PA be deferred pending the removal of Birmingham Airport's objection.
- 8.2 If insufficient information is submitted to remove Birmingham Airport's objection then the application be refused for the following reason:
 - a) Insufficient information has been submitted to demonstrate that the cranes needed to construct the development would not adversely impact on aviation safety contrary to High Places SPG and NPPF.
- 8.3 That consideration of planning application 2019/04239/PA be deferred pending the completion of a planning obligation agreement to secure the following:
 - a) 20 one and two bed Affordable Private Rent units. The provision of these units shall be split 50/50 and pepper potted across the site. 50% of the units shall be provided by first occupation, with the remaining 50% provided by 75% occupancy. The rental cost of these units shall be retained at 20% below local market value in perpetuity.
 - b) A mechanism to secure a review of the financial appraisal/contribution should the development change from a PRS scheme to market sale.
 - c) Payment of a monitoring and administration fee associated with the legal agreement of £10,000.

- 8.4 In the absence of a suitable planning obligation agreement being completed to the satisfaction of the Local Planning Authority on or before 1st November 2019 the planning permission be refused for the following reason:
- a) In the absence of any suitable legal agreement to secure a financial contribution towards affordable housing the proposal would be contrary to TP31 of the Birmingham Development Plan and NPPF.
- 8.4 That the City Solicitor be authorised to prepare, seal and complete the planning obligation.
- 8.5 That in the event of the planning obligation being completed to the satisfaction of the Local Planning Authority on or before 1st November 2019, favourable consideration be given to this application subject to the conditions listed below.

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| 1 | Requires the submission of a scheme for ecological/biodiversity/enhancement measures |
| 2 | Requires the prior submission of details of bird/bat boxes |
| 3 | Requires the submission of details of green/brown roofs |
| 4 | Requires the submission of a lighting scheme |
| 5 | Requires the submission of sample materials |
| 6 | Requires the submission of a landscape management plan |
| 7 | Requires the submission of hard and/or soft landscape details |
| 8 | Requires the prior submission of a construction method statement/management plan |
| 9 | Requires the scheme to be in accordance with the listed approved plans |
| 10 | Requires the submission of a CCTV scheme |
| 11 | Requires air quality mitigation |
| 12 | Requires noise mitigation |
| 13 | Requires the provision of cycle parking prior to occupation |
| 14 | Requires the submission of details of a delivery/service vehicle management scheme |
| 15 | Requires the submission and completion of works for the S278/TRO Agreement |
| 16 | Arboricultural Method Statement - Submission Required |
| 17 | Requires tree pruning protection |
| 18 | Requires the submission of hard surfacing materials |
| 19 | Requires the submission of boundary treatment details |
-

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- 20 Requires the submission of Architectural details
 - 21 Requires the prior submission of a sustainable drainage scheme
 - 22 Requires the submission of a Sustainable Drainage Operation and Maintenance Plan
 - 23 Requires the prior submission of a contamination remediation scheme
 - 24 Requires the submission of a contaminated land verification report
 - 25 Requires an employment construction plan
 - 26 Requires submission of management plan
 - 27 Requires the prior submission of a programme of archaeological work
 - 28 Glazing, vents and noise barrier
 - 29 Noise insulation required
 - 30 Implement within 2 years (Full)
 - 31 Requires submission of a radar assessment
 - 32 Restricts development height
-

Case Officer: Joanne Todd

Photo(s)

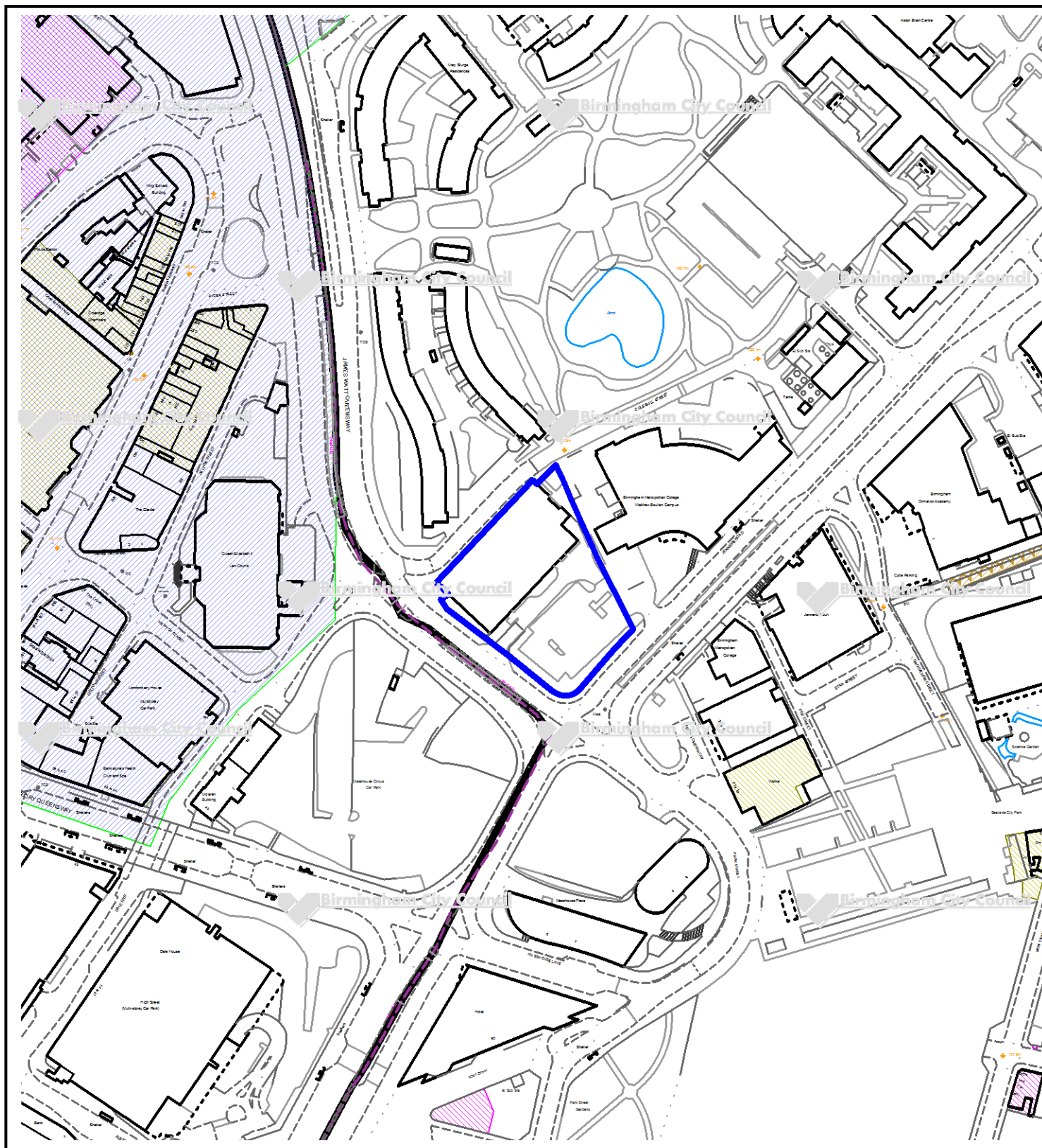


Fig 3: Site on 26th September 2019



Fig 4: Site on 27th November 2019

Location Plan



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Birmingham City Council
Planning Committee 26 March 2020

Appeal Decisions Received from the Planning Inspectorate in February 2020

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
Householder	114 Northfield Road, Harborne	Erection of detached outbuilding to side. 2019/06420/PA	Dismissed	Delegated	Written Representations
Householder	2 Beech Avenue, Quinton	Erection of two storey side and rear and single storey rear extensions and installation of porch to front. 2019/07897/PA	Dismissed	Delegated	Written Representations
Advertisement	Expressway Industrial Estate, Bracebridge Street, Aston	Display of 1 internally illuminated hoarding sign. 2019/07471/PA	Dismissed	Delegated	Written Representations
Telecommunications	Coleshill Road, Ward End	Installation of telecommunications upgrade to include installation of Phase 7 monopole, equipment cabinet and associated works. 2019/04469/PA	Allowed (see note 1 attached)	Delegated	Written Representations
Telecommunications	Glebe Farm Road, Kitts Green	Installation of proposed phase 7 monopole wraparound cabinet at base and associated works. 2019/05350/PA	Dismissed	Delegated	Written Representations
Residential	Western Business Park, Great Western Close, Winson Green	Outline application (with appearance and landscaping reserved) for the erection of 6 blocks between 3 and 7 storeys comprising up to 296 residential units (Use Class C3) together with day nursery (use class D1) (88sqm) and gymnasium (use class D2) (88sqm) and associated car parking. 2018/06134/PA	Dismissed (see note 2 attached)	Committee	Written Representations
Residential	Land rear of 62 Brecon Road, Handsworth	Erection of dwelling house and associated parking. 2019/01006/PA	Allowed (see note 3 attached)	Delegated	Written Representations

Birmingham City Council
Planning Committee 26 March 2020

Appeal Decisions Received from the Planning Inspectorate in February 2020

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
Other	61 Gravelly Hill North, Erdington	Change of use from existing 3 no. self contained flats to 1no. flat and 8 bed HMO (Sui Generis) and retrospective erection of single storey rear extension. 2018/10286/PA	Allowed (see note 4 attached)	Committee	Written Representations
Other	Outside 100 Broad Street, City Centre	Application for Prior Notification for installation of solar powered telephone kiosk. 2018/09048/PA	Dismissed	Delegated	Written Representations
Other	Outside Pit Stop, 193-194 Broad Street, City Centre	Application for Prior Notification for installation of solar powered telephone kiosk. 2018/09048/PA	Dismissed	Delegated	Written Representations
Other	2a Bond Street, Hockley	Erection of single storey rear extension and change of use from storage (Use Class B8) to Office (Use Class B1). 2019/04725/PA	Dismissed	Delegated	Written Representations
Other	38 Carlyle Road, Edgbaston	Application for a Certificate of Lawfulness for the existing use as an HMO (Sui Generis) in excess of 10 years. 2018/04777/PA	Dismissed	Delegated	Written Representations
Other	19 Twynning Road, Edgbaston	Change of use from dwelling (Use Class C3) to 7 bedroom House in Multiple Occupation (HMO) (Sui Generis). 2019/03978/PA	Allowed (see note 5 attached)	Delegated	Written Representations

**Birmingham City Council
Planning Committee 26 March 2020**

Appeal Decisions Received from the Planning Inspectorate in February 2020

<u>CATEGORY</u>	<u>ADDRESS</u>	<u>USE</u>	<u>DECISION</u>	<u>TYPE</u>	<u>PROCEDURE</u>
Other	166 Park Hill Road, Harborne	Change of use from single family dwelling (Use Class C3) to 8 bedroom HMO (Sui-Generis), erection of two storey and single storey extension to rear and installation of dormer window to rear. 2018/10383/PA	Dismissed	Delegated	Written Representations
Other	Land rear of 314-320 Tile Cross Road, Tile Cross	Use of land for the stationing of caravans for residential purposes and erection of single storey detached building. 2018/05865/PA	Allowed (see note 6 attached)	Delegated	Hearing

Total - 15 Decisions: 10 Dismissed (67%), 5 Allowed

Cumulative total from 1 April 2019 - 184 Decisions: 150 Dismissed (82%), 30 Allowed, 4 Part Allowed

Notes relating to appeal decisions received in February 2020

Note 1: (Coleshill Road)

Application refused because the proposed development, by reason of its siting, height and bulk, constitutes a dominant and incongruous feature within the streetscape surrounding the site which would be harmful to the character and appearance of the area.

Appeal allowed because the Inspector concluded that the proposed development would not harm the street scene or character and appearance of the area, with particular regard to siting and size.

Note 2: (Western Business Park)

The Appellant was granted a partial award of costs against the Council.

Note 3: (62 Brecon Road)

Application refused because 1) The proposed development, by virtue of its siting, design, appearance and the shape and depth of the plot, would adversely affect the character of the existing residential area. It would introduce a cramped and contrived form of development into the street scene that would be at odds and harmful to local character. 2) It has not been adequately demonstrated that the proposal would not have an adverse impact on existing street trees, which make a positive contribution to the character of the existing residential area.

Appeal allowed because the Inspector concluded that the proposal would not have an unacceptable effect on the character and appearance of the area, nor would it have an unacceptable effect on the amenity value of the existing street trees.

Note 4: (61 Gravelly Hill North)

Application refused because the use of the building as an HMO constitutes a further erosion of the prevailing character of the wider area resulting from the conversion of large family homes to multi-occupation use. The cumulative effect of those conversions has detrimentally affected the character of the area.

Appeal allowed because the Inspector considered that one additional HMO would barely alter, and therefore not harm, the character of the area.

Note 5: (19 Twynning Road)

Application refused because the conversion of this property to a 7 bed HMO (Sui Generis) would occur in an area which already contains a high number of premises in non-single family housing uses and the cumulative effect would have an adverse impact on the residential character and appearance of the area as well as not contribute to a balanced community and sustainable neighbourhood.

Appeal allowed because the Inspector concluded that the development would cause no significant harm to the character and appearance of the area and would not result in an imbalanced community.

Note 6: (314-320 Tile Cross Road)

Application refused because 1) The proposed development by virtue of its design, size, layout and position within the site would adversely affect the character of the existing residential area. 2) The proposed development by virtue of its location is considered backland development and would adversely affect the character of the existing residential area. 3) The proposed development site is not identified or allocated to provide accommodation for Gypsies or Travellers

Appeal allowed because the Inspector concluded that the development would not significantly harm the character of the area.

The Appellant was granted a partial award of costs against the Council.

BIRMINGHAM CITY COUNCIL

REPORT OF THE INTERIM DIRECTOR of INCLUSIVE GROWTH

PLANNING COMMITTEE

DATE : 23 April 2020

THE BUILDING (LOCAL AUTHORITY CHARGES) REGULATIONS 2010 - ANNUAL SCHEME OF CHARGES.

1.0 SUMMARY

- 1.1 This report informs your Committee about proposed revisions in respect of Building Regulation charges and seeks approval to implement these from 1st April 2020.

2.0 RECOMMENDATIONS

That your Committee:

- 2.1 Approve the proposed adjustments to the existing fee scheme for domestic (homeowner) and small commercial projects with effect from 1st April 2020.
- 2.2 Approve the continued negotiation of charges within either volume or higher value commercial projects to the Director of Building Control Acivico (Building Consultancy) Ltd.
- 2.3 Approve the recommendation to maintain any other published charges at existing levels to mitigate against an increased threat from competition and a consequential impact on workload.

Contact Officers

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3.0 PURPOSE OF REPORT

- 3.1 This report informs your Committee about proposed revisions in respect of Building Regulation charges and seeks approval to implement with effect from 1st April 2020.

4.0 BACKGROUND

- 4.1 Charges were last subject to review by this Committee in March 2019 where the existing year's scheme was adopted. The primary objective of which was to recover the position following a series of zero or below inflationary uplifts.
- 4.2 Building Regulation charges are subject to an annual review which takes into account the following:
- Corporate charging policy.
 - Forecast changes in the cost base alongside a statutory constraint for the service area to operate at cost neutral.
 - Analysis of service inputs for applications in each charge category over the preceding twelve months.
 - The external competitive environment within which Acivico (Building Consultancy) Ltd operates.
- 4.3 The Building Control Charge Regulations came into force in 1999 and require each Local Authority to establish a framework for Building Regulation applications. Prior to this charges were centrally 'prescribed' by government. The primary aims of the over-arching regulations have remained consistent in their objectives of ensuring that;
- a) core Building Control functions are delivered on a cost recovery basis, funded wholly through external charges.
 - b) charges are transparent and able to demonstrate value for money and competitiveness. The charge system incorporates inspection frameworks which identify anticipated frequency of visits and stages of construction to which they apply. This information is issued to the homeowner on receipt of an application and is subsequently reinforced with their appointed contractor on site.
 - c) charges support an appropriate level of quality to ensure that competitors (using price as the only comparator) do not drive standards down.
 - d) charges are sufficiently flexible reflecting the multiple market sectors embraced by the scheme. As a consequence, charges incorporate a mix of standardised high volume categories combined with individually calculated fees (based on inputs). Be-spoke calculations are primarily used for technically complex developments or those that involve significant levels of repetition.
 - e) factor in additional charges where inspection inputs exceed the original estimate for the 'reasonable provision' of service. This ensures clients take responsibility for ensuring that site visit requests by their appointed contractor are appropriate.

- 4.4 Since April 2012 the City Council's statutory Building Control functions have been discharged through its wholly owned company Acivico (Building Consultancy) Ltd which has an ongoing contractual responsibility to ensure that client demand is balanced with expenditure. Following sustained high performance the contract has been extended on three separate occasions, presently expiring in April 2023.
- 4.5 The following revisions provide the basis of Acivico (Building Consultancy) Ltd's charges to its external clients for the financial year 2020/2021.
- 4.6 Clients value the simplicity and ease of use of the application forms/charge tables. Feedback gathered over the proceeding twelve months has been used to inform the proposals along with minor textual adjustments in formats.

5.0 PROPOSED ADJUSTMENTS FOR DOMESTIC APPLICATION CHARGES

- 5.1 Charges are separated into two principle components and align with core processes (an initial 'application charge' followed by a site service charge, payable when work starts on site). In minor volume categories it has proved to be more cost effective and customer orientated to combine both elements into a single up-front payment.
- 5.2 With modest increases over the previous five financial years and by comparison to equivalent professional services it is considered prudent to apply an above inflationary uplift for the forthcoming year. In order to maintain user friendly charges appropriate rounding has been applied delivering an average increase across all domestic categories of 5%.

5.3 Schedule of proposed changes

	Existing	Proposed
Detached structure, garage/store etc.	£455	£480
Extension less than 10m2	£455	£480
Extension less than 40m2	£580	£610
Extension less than 60m2	£725	£765
Extension less than 100m2	£825	£865
Loft conversion	£455	£480
Garage conversion	£400	£425
Minor building works less than £5k (re-roof, chimney breast removal etc.)	£160	£170
Other work valued less than £15k	£345	£360
Other work valued less than £50k	£560	£585
Other work valued less than £100k	£825	£865

- 5.3 Having analysed inputs and the prevailing market conditions all other published charges in this sector have no adjustments proposed. This is wholly consistent with the principles of the enabling legislation outlined within Section 4.3 above.

6.0 PROPOSED ADJUSTMENTS FOR SMALL COMMERCIAL PROJECTS.

- 6.1 Charges for small commercial projects less than £100,000 (on site construction value) are structured into three tables capturing the primary volume build scenarios (extensions, refurbishments and other alterations).

For consistency with the domestic sector charges a two stage charge structure applies although there is a greater weighting to the initial application charge to reflect an increased technical input and mandatory liaison with West Midlands Fire Service.

6.2	Schedule of proposed changes	Existing	Proposed
	Commercial extension less than 40m2	£580	£610
	Commercial extension less than 100m2	£825	£865
	Internal refurbishment less than 75m2	£325	£345
	Internal refurbishment less than 200m2	£540	£565
	Internal refurbishment less than 500m2	£725	£765
	Other alterations valued less than £15k	£345	£360
	Other alterations valued less than £50k	£560	£585
	Other alterations valued less than £100k	£825	£865

7.0 REGULARISATION CHARGES

- 7.1 Where work is identified as having taken place without the formal involvement of Building Consultancy, clients have a facility to 'regularise' the matter through a retrospective application. This option is frequently used to resolve compliance problems identified or reported through enforcement processes.
- 7.2 As the option entails the assessment of a fully built structure there are additional complexities and inputs to ensure compliance. For example with an extension the majority of construction detail required for inspection is either underground or sealed within walls or roof voids.
- 7.3 To reflect this Regularisation charges are set at 10% above the standard rates identified above.

8.0 HIGH VALUE COMMERCIAL AND VOLUME APPLICATIONS

- 8.1 Charges for higher value (greater than £100,000 on site construction cost) and high volume submissions (multi-storey or multi-unit) are calculated on an individual basis taking into account the complexity, design, duration, value and estimated time inputs. The statutory basis to agree charges in this more commercially mature manner was formally introduced in the 2010 Regulations.
- 8.2 This sector is subject to a high degree of market sensitivity and threat from private sector Building Control providers (Approved Inspectors). Each project lost to a competitor represents an erosion of the Council's influence whilst perpetuating an alternative that can be mismatched with the public sector/safety ethos. To respond positively to these external influences Acivico (Building Consultancy) Ltd aims to deliver a competitive, flexible, technically proficient service aligned to corporate values.

- 8.3 Since its inception in 2012 Acivico (Building Consultancy) Ltd has been extremely successful in securing projects where an opportunity to provide a quotation has been provided. As a consequence and despite sustained competitor activity it continues to be widely regarded as a regional and national market leader.

9.0 SUPPLEMENTARY CHARGES

- 9.1 Acivico (Building Consultancy) Ltd provides a comprehensive research and supply service for statutory documents that have been mislaid and are required to support the conveyancing sector. The existing charge that supports this service was derived from an assessment of research, reproduction time and the fast track nature (documents are normally provided within 24 hours to assist with the demands of the conveyancing sector). The current charge for this service is £35 and has not been subject to increase for many years. It is therefore proposed to increase this by £5 to a more commercially representative £40.

10.0 FINANCIAL IMPLICATIONS

- 10.1 The Building Regulation service is under a legislative requirement to operate within a self-contained externally financed 'trading account'. This statutory provision places responsibility upon the City Council to ensure that wherever practical that income derived from these charges is balanced with the cost of providing the service.
- 10.2 Throughout its history as a trading entity both inside and more recently outside the Council, Acivico (Building Consultancy) Ltd has been extremely successful in managing marginal annual variances to ensure that the required break even position is maintained.
- 10.3 The proposals identified above for the 2020/2021 charge scheme maintain the delivery of a balanced statutory trading account and continue to underline that the service operates in an efficient and cost effective manner.

11.0 IMPLICATIONS FOR PRIORITIES

- 11.1 **A Modern and Successful City** – it is widely recognised that an effective Building Regulation Service is a fundamental part of the development process whilst at the same time ensuring that buildings support the continued health, safety and welfare of persons who own or use them.
- 11.2 **Equalities** - the enabling legislation stipulates that a Local Authority is unable to charge a Building regulation fee where the work is directly linked to a person with a disability. As a consequence Acivico (Building Consultancy) Ltd process around one hundred and fifty applications in this category per annum the costs of which are borne from general funds.

Signed:

Jaswinder Gandham
Council Statutory Functions Officer

for
Ian Macleod
Interim Director of Inclusive Growth